

COMMISSION MEMBERS



Justice Javed Iqbal
President

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Ashraf Jehangir Qazi
Member

Lt. Gen. Nadeem Ahmed
Member

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ALJAZEERA

Acronyms Used

AAA	Anti-aircraft Artillery
ACC	Area Control Center
ADA	Air Defence Alert
ADG	Acting Director General
ADS	Air Defense System
AEW	Airborne Early Warning
AI	Air Force Intelligence
ASCA	Acquisition and Cross Servicing Agreement
ATC	Air Traffic Controller
ATA	Anti Terrorism Act
AWACS	Airborne Warning and Control System
BHU	Basic Health Unit
BoI	Board of Inquiry
CAA	Civil Aviation Authority
CAS	Chief of Air Staff
CAP	Combat Air Patrol
CEO	Chief Executive Officer
CF	Coalition Forces
CI	Counter Intelligence
CIA	Central Intelligence Agency

CID	Crime Investigation Department
CM	Chief Minister
CMH	Combined Military Hospital
CNIC	Computerized National Identity Card
COAS	Chief of Army Staff
CO	Commanding Officer
CRPC	Criminal Procedure Code
CT	Counter Terrorism
CTD	Counter Terrorism Directorate
CTW	Counter Terrorism Wing
DAI	Directorate of Air Intelligence
DCAS-OPS	Deputy Chief of Air Staff Operations
DCC	Defence Committee of the Cabinet
DCO	District Coordination Officer
DCT	Department of Counter Terrorism
DGMI	Director General Military Intelligence
DGMO	Director General Military Operations
DHO	District Health Officer
DICC	District Intelligence Coordination Committee
DIG	Deputy Inspector General
DNA	Deoxyribonucleic acid
DOR	Director Office of Revenue
DP	Defense Policy
DPO	District Police Officer
DSP	Deputy Superintendent of Police

DSR	Daily Situation Report
EAD	Economic Affairs Division
EDO	Executive District Officer
ERF	Extra Regional Forces
FATA	Federally Administered Tribal Areas
FIA	Federal Investigation Agency
FIR	First Incident Report
FP	Family Planning
GoP	Government of Pakistan
GHQ	General Head Quarters
HARs	High Altitude Radars
HDO	Higher Defence Organization
HVT	High Value Target
IB	Intelligence Bureau
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
ICT	Islamabad Capital Territory
IDP	Internally Displaced People
IG	Inspector General
IMF	International Monetary Funds
ISAF	International Security Assistance Force
ISI	Inter Services Intelligence
JCSC	Joint Chief of Staff Committee
JSCS	Joint Chief of Staff Committee
JSD	Joint Strategic Directive

JSHQ	Joint Services Head Quarters
JSOC	Joint Special Operations Command
KGB	Komitet Gosudarstvennoy Bezopasnosti / Committee for Security
KHAD	Khadamat-e-Aetla'at-e Dawlati / State Intelligence Agency
KLB	Kerry Lugar Bill
KPK	Khyber Pakhtunkhwa Province
LARs	Low Altitude Radars
LEA	Law Enforcement Authorities
LHS	Lady Health Supervisor
LHW	Lady Health Worker
MI	Military Intelligence
MLC	Military Land and Cantonment
MNNA	Major Non-NATO ally
MoD	Ministry of Defence
MOD	Military Operations Directorate
MoFA	Ministry of Foreign Affairs
MoI	Ministry of Interior
MOU	Mobile Observation Units
MoU	Memorandum of Understanding
NACTA	National Counter Terrorism Authority
NADRA	National Database and Registration Authority
NARA	National Aliens Registration Authority
NATO	North Atlantic Treaty Organization
NCMC	National Crisis Management Center

NDU	National Defence University
NGO	Non-Government Organization
NI	Naval Intelligence
NIC	National Identity Card
NSA	National Security Advisor
NSC	National Security Council
NSP	National Security Policy
NWFP	North West Frontier Province
OBL	Osama bin Laden
ODRP	Office of Defense Representative
PAF	Pakistan Air Force
PATA	Provincially Administered Tribal Areas
PCO	Public Call Office
PESCO	Peshawar Electric Supply Company
PHC	Primary Health Care
PM	Prime Minister
PMA	Pakistan Military Academy
QRF	Quick Reaction Force
RAW	Research and Analysis Wing
RCIO	Regional Criminal Investigation Officer
SAMs	Surface to Air Missiles
SHO	Station House Officer
SIB	Special Investigation Branch
SOC	Strategic Operations Command

SOC	Sector Operation Center
SOP	Standard Operating Procedures
SSP	Senior Superintendent of Police
STC	Save the Children
SUPARCO	Pakistan Space and Upper Atmosphere Research Commission
TORs	Terms of Reference
UNSC	United Nations Security Council
US	United States
VeriSys	Verification Services System
WAPDA	Water and Power Development Authority



Executive Summary



Chapter 1 Introduction

1- On the night of May 1-2, 2011 US Special Forces executed a covert special operations mission in Abbottabad, Khyber Pakhtunkhwa (KPK) province, Pakistan, which reportedly resulted in the killing of the Al-Qaeda leader and long time international fugitive, Osama bin Laden (OBL) around 0100 hours. The body of OBL was not found. Apart from OBL, the US mission killed his son and three other persons including a woman who were Pakistani citizens. In addition, the killers wounded an Arab lady who said she was a wife of OBL. The mission, code-named "Operation Neptune Spear" was launched from Jalalabad in Afghanistan. The two Pakistani males killed were brothers who worked as security guards-cum-facilitators-cum-couriers for OBL and Al-Qaeda. The slain Pakistani lady was the wife of one of the slain brothers.

2- The Compound containing the house where the US mission was executed was of significant size. It had high walls and barbed wire. It was situated in Bilal Town, a civilian residential area located in the Abbottabad Cantonment. The residential area falls within the jurisdiction of the Abbottabad Cantonment Board. The OBL Compound was located approximately a kilometer in a straight line from the Pakistan Military Academy of Kakul. It was also situated at aslight distance from the other houses of the neighborhood, except for one belonging to a local person who occasionally worked in the OBL Compound.

3- The US mission was ordered by President Barack Obama and carried out in a US Central Intelligence Agency (CIA) operation by a team of US Navy SEALs from the US Naval Special

Warfare Development Group (DEVGRU, better known by its former name, SEAL Team Six) o the Joint Special Operations Command (JSOC) with support from CIA operatives on the ground Four helicopters carrying the US Navy SEALs traversed Pakistani airspace for over an hour anc penetrated Pakistani territory to a depth of more than a hundred kilometers in the middle of a moonless night. They completed their mission in Abbottabad in a period estimated between 36 and 38 minutes. Altogether, the mission was in Pakistani territory and airspace for just over 3 hours.

4- Having killed OBL, the Americans reportedly took his body and dumped it in the Indian Ocean with the story line that it was buried in accordance with Islamic rituals. According to some religious authorities, Islam does not permit the burial at sea of persons who die on land. No pictures of the body of OBL were released. None were apparently shown to any Pakistani authority. There has, since, been a WikiLeaks report that in fact the body of OBL was taken to the US. There has been no authentication of such a report.

5- The US Navy SEALs handcuffed the surviving women and some of the children and collected a "treasure trove" of information in the shape of hard drives, thumb disks and written material. They also destroyed a disabled helicopter before departing and were able to exit Pakistani air space, apparently without being detected, and certainly without being intercepted. According to one American account, the mission was as easy as "mowing the lawn."

6- Al-Qaeda confirmed the death of OBL on May 6 through a message posted on several Jihadi websites. Understandably, the people of Pakistan were outraged on learning of the covert, deliberate and major violation of Pakistan's sovereignty and territorial integrity by a country that, despite significant mutual differences and escalating tensions, was supposed to be an ally rather

than a foe. The people demanded an explanation not just from the US, but even more so from those responsible for defending the country at home.

7- They demanded an explanation of how the US was able to execute a hostile military mission which lasted around three hours deep inside Pakistan which involved an armed assault on a target in a cantonment area. They wanted to know how this could happen without any kind of military response. The US raiding mission did not encounter any kind of military resistance either on its way in, or on its way out of Pakistan. The people of Pakistan also demanded to know how the intelligence establishment apparently had no idea that an international fugitive of the renown or notoriety of OBL was residing within Abbottabad cantonment. Pakistan was, of course, legally obliged by several UN resolutions to cooperate in the search for OBL and to bring him to justice.

8- Charges of incompetence, negligence and complicity, or all three, were also heard all over the country. Complicity,whether official or unofficial, wasfrequently alleged on two counts: with the CIA and/or with OBL. The initial response by the Government appeared confused and incoherent and it was unclear what role, if any, Pakistan had in the actual operation. The national outrage was compounded by a sense of international isolation, especially as a barrage of allegations and insinuations were directed towards the government, the military and its intelligence agencies in the immediate aftermath of the US mission, euphemistically referred to as the "incident of May 2".

9- A joint session of the National Assembly and the Senate of Pakistan was called on May 9 – a week after the incident. The Director General Military Operations, (DGMO) and Chief of Air Staff Operations (DCAS-Ops) briefed the joint session. The DG ISI also briefed the Joint

Parliamentary session and offered to resign.[1] A joint resolution was unanimously adopted which, among other things, asked the government to hold a detailed probe into the incident.[2]

10- Subsequently, some party leaders who had supported the joint parliamentary resolution of May 14 to establish an independent Commission of Inquiry changed their minds and opposed the establishment of an independent Commission.[3] Initially, concerns were expressed that a government appointed Commission would not be sufficiently independent to be credible. Later, it appeared that there were fears that it might be too independent. There appeared to be a transition among some political leaders and legislators from bitter criticism against the authorities and institutions held responsible in the aftermath of the May 2 incident, to a more conciliatory concern for the "morale" of the military. The military also warned against "army bashing."[4]

11- It was not before June 21, 2011 – a whole month and a half after the May 2 incident – that the Government of Pakistan through the Ministry of Law, Justice and Parliamentary Affairs issued a notification setting up a Commission to inquire into the circumstances that led to the Abbottabad incident.

Composition and Mandate

12- The Abbottabad Commission as it came to be called, was established under the Pakistan Commission of Inquiry Act, 1956, and subsequently amended.[5] It comprised the following:[6]

[1]For more details, please see Annex A
[2] Text of parliamentary resolution of May 14, 2011 can be seen as Annex B
[3]For details, please see Annex C
[4]For details, please see Annex D
[5] Pakistan Commission of Inquiry Act, 1956 is placed as Annex E
[6] Official notification of the Abbottabad Commission is placed as Annex F

Mr. Justice Javed Iqbal, Senior Most Judge Supreme Court of Pakistan	President
Mr Abbas Mohammad Khan, Retired Inspector General of Police	Member
Amb.(retd.) Ashraf Jehangir Qazi Director General, Institute of Strategic Studies, Islamabad	Member
Lt. Gen (retd.) Nadeem Ahmed	Member
Cabinet Secretary, Ms. Nargis Sethi	Secretary

13- The Ministry of Law, Justice and Parliamentary Affairs communicated the mandate of the Commission according to which it was to:

a. Ascertain the full facts regarding the presence of Osama bin Laden in Pakistan;

b. Investigate the circumstances and facts regarding the US operation in Abbottabad on May 2, 2011;

c. Determine the nature, background, and causes of lapses of concerned authorities, if any; and

d. Make consequential recommendations.

14- The Joint Resolution stated that the composition and modalities of the Commission were to be decided "after consultation between the Leader of the House and the Leader of the Opposition." There were allegations that this did not take place. One distinguished former justice and lawyer declined to take up his assignment as a member of the Commission. The Chief Justice of Pakistan was apparently not consulted before the nomination of the President of the

Commission who was at the time the Senior Puisne Judge of the Supreme Court. As a result he declined to take up his assignment until the Government wrote a letter to the Chief Justice soliciting his assent. This was eventually done enabling the President of the Commission to take up his assignment. These political wranglings threatened to undermine the credibility of the Commission even before it started. One newspaper as a result described the Commission as "still born".

Initial Decisions of the Commission

15- The first formal meeting of the Commission took place in the Cabinet Division of the Government of Pakistan in Islamabad on July 5, 2011 – two months after the US raid on Abbottabad. The Commission decided the following:

a. The scope of its inquiry would be comprehensive and it would have the authority of a superior court to summon any witness irrespective of rank or status.
b. The Commission would be transparent, independent, impartial, thorough and credible in its work and its report;
c. The record of the Commission's proceedings would be kept through minute taking and not audio or video recording;
d. The proceedings of the Commission would be in-camera. But the public would be kept updated through press releases after each hearing;
e. The Commission would seek to provide factually accurate and honest answers to all relevant questions that agitated the minds of the public including those that occurred to the members of the Commission;

f. An effort to ascertain the US Government's response to relevant questions would be made through the Ministry of Foreign Affairs (MOFA) to have as comprehensive and balanced a view as possible. (Unfortunately, despite the U.S. government's initial welcome to the establishment of the Commission it refused to cooperate with it.)

g. The advice of technical and legal experts, wherever required, would be sought;

h. Field visits would be made by members of the Commission to the site of the incident, other places where OBL allegedly stayed in Pakistan, the Air Defence Command Center, Chaklala, Tarbela Aviation Base, Kala Dhaka (now Torghar), the apparent air route taken by the US Navy SEALs from the border with Afghanistan to Abbottabad, and any other place deemed necessary to develop a better understanding and knowledge of the background and circumstances of the incident;

i. The general public would be asked through a press release and public notice to come forward with any relevant information that would be helpful to the Commission in the discharge of its mandated task. The public was to be assured that the identity of individuals who came forward would be protected;

j. No time limit for the completion of the Commission's report was set to allow it to present as comprehensive a report as possible without any unnecessary delay.

k. Other departmental inquiry reports that were carried out on the May 2 incident would be consulted;

l. The family of the late OBL would not be allowed to leave the country until the Commission had an opportunity to meet them;

m. The members of the Commission would not draw any honorarium;

n. The presence of three members would constitute a quorum for meetings of the Commission;

o. Panel discussions would be held with a range of civil society including representatives of political parties, eminent jurists, former DGs ISI, former Foreign Ministers and Foreign Secretaries, former Ambassadors, prominent media persons, academics, analysts, social activists, etc. in order to benefit from a broad range of relevant inputs for the work of the Commission;

p. A list of witnesses to be interviewed would be drawn up, with the possibility of expanding the list during the course of the inquiry;

q. The Cabinet Division would be asked to make available the necessary equipment, staff, finance, offices, and meeting space for its functioning. The following were made available to support the Commission in its work: Mr. Shahidullah Baig, Additional Secretary, Cabinet Division; Mr. Haroon Rashid minute taker; Lt. Col. Irfan Naziri and Hafiz M. Ziauddin for administration; and Mr. Nizamani and Mr. Mohammad Naeem for administration and office management. In addition, four research analysts, Mr. Mohammad Waqas Sajjad, Ms. Mahrukh Khan, Ms. Mahwish Hafeez, and Ms. Shamaila Ahmarin were also recruited; and

r. The reports of the Hamood-ur-Rahman Commission, the US 9/11 Commission, and the Indian Commission that inquired into the November, 2008 bombings in Mumbai would be consulted for methodology and procedural guidance.

Context of Inquiry

16- Inquiries into situations involving national embarrassment, humiliation and trauma generally take place in one of two national contexts: (a) Regime change, when the successor regime wishes

to expose the full spectrum of the alleged acts of commission and omission of the previous regime as responsible and, accordingly, it is inclined to extend every encouragement and cooperation to the inquiry; and (b) Regime continuance, when the regime is desperate to distance itself from any responsibility for the national disaster that occurred on its watch. Accordingly, if a Commission of Inquiry is established it is often as a reluctant response to an overwhelming public and parliamentary demand. The Commission of Inquiry of the Abbottabad incident of May 2, 2011, was established in the latter context.

17- Accordingly, for its assessments, findings, recommendations and conclusions the Commission has relied on available evidence as well as intelligent, informed and impartial inference and a balance of probability.Commission of Inquiry is not necessarily constrained by the lack of incontrovertible evidence if the balance of probability indicates a finding. Honesty of effort, due diligence and common sense, are usually sufficient to get as close as possible to the truth, even in unhelpful circumstances. Where precise findings are not possible, because of lack of conclusive evidence, credible answers to questions are still possible on the basis of which conclusions can be drawn and recommendations made.

18- The Commission has attempted to be independent, thorough and non-partisan in an uncompromising search for as much of the truth as possible in the circumstances in which it worked. The Commission's aim has been not just to assign blame or responsibility. But even more importantly, it has sought the fullest and most accurate possible account of the events surrounding May 2, 2011, to draw lessons and make recommendations to ensure that May 2, 2011 like incidents do not recur.

19- The Commission recognised that its report must neither be a witch hunt nor a whitewash. On the contrary, it must be a search for the truth within the parameters of its mandate, (which it had the authority to interpret) wherever it led. If it deviated from this path, it would be a dereliction of duty.

20- There were frequently expressed apprehensions that the Commission's report and its recommendations would be ignored, or even suppressed. The country's track record with regard to acting upon the findings and implementing the recommendations of Inquiry Commissions reports in the past has been poor.

21- Accordingly, the Commission respectfully insists that in the national interest the Government of Pakistan discharge its obligation to make this report and its findings and recommendations publicboth in English and Urdu languages without delay. This is especially so because the Commission was established as a result of a unanimously adopted resolution of a joint parliamentary session.

22- There were fundamental questions that the Commission sought to obtain answers to. In accordance with the 4-point mandate, they were as under.

Main questions with reference to mandate

23- Ascertain the full facts regarding the presence of OBL in Pakistan

Relevant Questions:

i. Was OBL present at the Compound when the US operation took place on May 2, 2012?
ii. Was OBL killed?
iii. Why was no evidence of his death made public?

iv. How long had OBL been resident in Abbottabad?

v. How long had he been resident in Pakistan?

vi. Where else in Pakistan did OBL and his family stay?

vii. When and how did OBL and his family enter Pakistan?

viii. How were OBL and his family able to stay and travel in Pakistan without detection?

ix. How was OBL able to stay within the limits of Abbottabad Cantonment?

x. What was the nature and extent of any OBL support network?

xi. Did it include Pakistani personnel?

xii. Did it include personnel or former personnel of the Pakistan government including the military, intelligence and security agencies?

xiii. Which ministry, department or agency of the government of Pakistan had the primary responsibility for ascertaining whether or not OBL was in Pakistan, and if so, for tracking him down?

xiv. Was there any intelligence sharing with the US in the search for OBL?

xv. Did the CIA share intelligence with the ISI after it got onto the track of OBL?

xvi. If not, why not?

xvii. In view of the fact that a number of HVTs were either raided or apprehended in and around Abbottabad, how did OBL's Compound, which was large and set apart with high walls and barbed wire, fail to attract the attention of intelligence and security officials over the years?

xviii. Was OBL betrayed either by his security guards or by someone within his family?

xix. Was OBL active and in command of Al-Qaeda operations from his hideouts in Pakistan?

xx. What was the mechanism and process adopted by the government of Pakistan for determining whether or not OBL was in Pakistan and for tracking him down?

xxi. Were progress reports demanded, submitted and discussed at any level within the government?

xxii. Did discussions between the Pakistani political, military and intelligence leadership (the President, the Prime Minister, the COAS, the DG ISI) and the US leadership (the President, the Secretary of State, the Director CIA, the Secretary Defence, the Joint Chiefs of Staff, etc.) on the specific subject of the presence of OBL in Pakistan take place? Are records of meeting available?

xxiii. What was the priority regarding the search for OBL?

xxiv. Several senior foreign political, military and intelligence officials had regularly alleged or suggested that OBL was being protected by elements of the intelligence community in Pakistan. Apart from denying these allegations, was any serious effort ever made to check them out?

xxv. Was the failure to track OBL a result of negligence, incompetence or complicity at some level within the government and its security organizations and intelligence agencies?

Investigate the circumstances and facts regarding the US operation in Abbottabad on May 2, 2011

Relevant Questions:

xxvi. How was the US special operations mission to kill OBL in Abbottabad successfully carried out without any apparent detection or response by the Pakistan defence forces, especially as it involved staying within Pakistan's airspace and territory for over 3 hours, penetrating Pakistani territory up to a distance of over 100 miles, and carrying out a raid on a residence within a cantonment area lasting over half an hour?

xxvii. How were the Pakistan defence forces taken by complete surprise when US-Pakistan relations were seriously strained over US allegations of safe havens in Pakistan, and a number of previous US raids and intrusions involving loss of Pakistani military and civilian personnel had taken place? Moreover, warnings were publicly made by no less a person than President Barak Obama that a unilateral strike could be undertaken if OBL was located in Pakistan. Were such warnings conveyed in private also?

xxviii. Is it official or unofficial defence policy not to attempt to defend the country if attacked by a military superpower like the US?

xxix. Did the PAF radars and air defence system completely fail to pick up the US helicopters at any time during the over 2 hours flight time during which they flew in and out of Pakistan?

xxx. If US technology and flying techniques made it impossible for Pakistan's air defence at any time to detect the US mission, why was there such a palpable feeling of despondency and failure in the PAF after the incident?

xxxi. Did the US at any time and at any level get in touch with the Pakistani political or military leadership before or during the raid to ensure against a military response from Pakistan which could have resulted in loss of life and aircraft on both sides and an even more serious political crisis between the two countries?

xxxii. Was Pakistan at any time offered the option of a joint operation against OBL as ha happened in the apprehension of previous HVTs?

xxxiii. Was there a CIA network of ground support for the location of OBL and for the U operation to kill him?

xxxiv. Was there a safe house set up by the CIA in the neighborhood of the OBI Compound?

xxxv. How did the ISI and other civil and military intelligence agencies completely mis both the OBL and the CIA support networks?

xxxvi. How was the CIA able to set up an extensive spy network in Pakistan not just to track OBL but very likely to secure other vital intelligence affecting the defence and security interests of Pakistan?

xxxvii. Given the deteriorating relations with the US and its warnings and border raids, and given the military asymmetry which minimized Pakistan's military options in the event the US acted on its threats, was there any concerted effort to address the situation through non-military options such as diplomacy, policy reviews, dismantling terrorist structures, in Pakistan, denying safe havens for militants on Pakistan's territory, etc? Was the situation ever discussed in the Cabinet, the DCC, etc and are there records of such meetings?

xxxviii. While India may be the primary and permanent threat to Pakistan, why was it in effect considered the only major threat to Pakistan's security, especially in view of the volatile relationship with the US, including its threats and the several air and ground border raids it had carried out against Pakistan's forces on the west?

Determine the nature, background and causes of lapses of concerned authorities, if any

xxxix. Did the US raid on Abbottabad on May 2, 2011 represent a major failure to protect the sovereignty, territorial integrity and independence of Pakistan?

xl. Was this failure avoidable?

xli. Was it a professional and technical or a policy and leadership failure?

xlii. Can the political, military and intelligence leadership be absolved of responsibility for a national security failure?

xliii. Can the failures, shortcomings, lapses, incompetence, etc. of relatively junior officials with limited responsibilities cause major national security failures?

xliv. Was May 2, 2011 a stand-alone failure or was it part of a series of national security failures preceding and following it?

xlv. What is meant by May 2 being referred to as a "national tragedy"? Does this refer to the killing of OBL in Pakistan?

xlvi. Would it be credible for the Commission to reach a conclusion that for lack of "one hundred percent hard evidence" no institution or individual can be held responsible and accountable for the political, military, security and intelligence failures that culminated in a night of shame on May 2, 2011?

Make consequential recommendations

24- These recommendations will be in line with the assessments and findings and will be directed by the need to prevent the recurrence of a national security failure such as occurred on May 2, 2011.

Progress Review and Methodology

25- The Commission began recording evidence from July 11, 2011, and completedits work on May, 25, 2012. It held 52 hearings to record evidence, conducted 7 field visits, examined more than 201 witnesses, and held numerous brainstorming sessions among its members. The witnesses who appeared before the Commission came from diverse backgrounds as shown in the following table.

Sector of society	Number of witnesses
Federal and Provincial Ministers	4
Secretaries of Ministries of the GoP	6
Civil servants	35
Army	14
Pakistan Air Force	13
ISI	11
Civil Aviation Authority	10
Family members of OBL / Ibrahim	7
Media representatives in Abbottabad	11
Neighbours of OBL in Abbottabad and local notables	18
Locals of Torgarh	4
Miscellaneous	25
Panelists	42
Law Expert	1
Total	201

26- In addition, the Commission reviewed documents submitted by different government agencies, as well as those recovered from the OBL Compound in Abbottabad. It also extensively consulted open source information, including eye witness accounts on different television channels. Some of the very extensive evidence collected from the OBL Compound was examined and several technical discussions were held with experts. Discussions with the

panelists from civil and political society as well as the services were particularly helpful in developing context and perspective for the report.

27- However, it must be noted that the response from the general public to the invitation from the Commission to come forward with any information they thought might be useful was disappointing. Very few came forward. Several explanations for this are possible. They include a pervasive sense of insecurity and vulnerability that restrains individuals from running the risk of upsetting powerful quarters, skepticism regarding the Commission's ability to protect them from the consequences, cynicism about the utility and purpose of the Commission given the fate of previous Commission reports and very few having anything relevant to say etc. The Commission thus had to actively arrange for a public meeting with the media in the Ministry of Information, External Publicity Wing on December 8, 2011, and with the media, local notables and neighbours of the OBL Compound in Abbottabad. This was the only way to develop grassroots information.

28- The Commission visited Abbottabad twice, from September 13 to 15, 2011, and then from September 29 to 30, 2011 to meet local witnesses and visit the OBL Compound. It also visited the Tarbela Army Aviation Base, which according to some news reports had been used by the US mission for its assault on Abbottabad. The Commission also visited Kala Dhaka / Torghar as it was reported to be the place where one or more US helicopters had landed both on the way to, and the way back from Abbottabad. It also aerially traversed the route that was most probably followed by the US mission to see how it had evaded radar detection through terrain masking and nap of the earth flying. The Air Defence Command Center at Chaklala was visited on two occasions for a visual briefing on the radar surveillance on the night of the US attack as well as to obtain responses to certain observations brought to the attention of the Commission. Finally,

the Commission travelled to Haripur to have a look at the house where OBL and his associates lived for two years from 2003 to 2005.

Layout of the Report

29- The report has been divided into two volumes. The first volume begins with this introductory chapter. The testimonies of the wives of OBL and the surviving wife of one of his trusted couriers and the details of the US military operationfollow in Chapter 3 and 4 respectively. These are in turn followed by the testimonies of the civilian, military and intelligence officials as well as some key witnesses of the operation and its aftermath. The Commission's assessments, findings and recommendation make up the rest of the volume before the conclusion. The second volume consists of the all annexes,the written statements and other details provided to the Commission.

Acknowledgment

30- The Commission wishes to express its fullest appreciation to the Government of Pakistan including its Ministries and Departments, Agencies, Armed Services, and especially the Cabinet Secretary and her team including Mr. Shahidullah Baig, Additional Secretary, Cabinet Division; Mr. Haroon Rashid minute taker; Lt. Col. Irfan Naziri and Hafiz M. Ziauddin for administration; and Mr. Nizamani and Mr. Mohammad Naeem for administration and office managementfor their cooperation and provision of facilities for its work. The Commission is grateful to all those who helped it in the completion of its very sensitive assignment, including Mr. Ahmer Bilal Soofi, the renowned International Law expert; panelists, Air Marshall. Shahid Latif, Major Gen. Mahmood Durrani, Major Mohammad Anees Khan, the Explosives Expert; Air Commodore Dr. Jahanzeb Masood and Group Captain Dr. Faheem Hashmi, Aerospace Engineering experts;

SUPARCO for satellite imageries and prints; the secretarial staff, Research Officer Ms. Shamaila Ahmarin and Institute of Strategic Studies Islamabad for providing three research analysts including Mr. Mohammad Waqas Sajjad, Ms. Mahwish Hafeez and Ms. Mahrukh Khan.



Chapter 2 The Fateful Night of May 1-2

31- Today was Amal's turn for the Shaikh to be with her. She was the youngest of his wives. Their rooms were on the top (or second) floor. The two elder wives, Khairiyya and Sharifa Siham had their rooms on the first floor. Like the rest of the rooms of the house they were

cramped and small. But they had apparently sufficed for six years. After the evening meal and prayer Amal and the Shaikh retired for the night. Shortly past midnight, they were awakened by the noise of what at first sounded like a storm. Their three year old son, Hussain, was asleep in the room. They went to the balcony to see what was happening. But it was a moonless night and pitch dark. Amal reached to turn on the light but the Shaikh said "No!" He went to the door to call for his son, Khalid, who lived on the first floor with his mother Sharifa. Amal went to the see her children. She had five children. When she returned the Shaikh's two daughters Maryam and Sumaiya had come up from their rooms on the first floor. They recited the Kalima (the decleration of faith) and verses from the Holy Quran. The Shaikh said American helicopters had arrived and they should all leave his room immediately. They were unwilling to do so. Maryam and her children went to the balcony. The Shaikh reached for his weapon.

32- At that moment they heard a blast outside the house. Simultaneously they heard noises that suggested to her people may be on the roof. They also heard persons coming up the stairs. Suddenly, Amal saw an American soldier on the landing outside the bedroom aiming his weapon at the Shaikh. She saw a red beam of light but heard no sound. She rushed the soldier and grappled with him in an attempt to take his weapon from him. But he screamed "No! No!" and shot her in the knee. She swooned and could not see anything. She could only hear the daughters of OBL being asked the name of the Shaikh. She recalled that while she lay injured on her bed the other ladies were taken downstairs. A considerable while later they heard a loud explosion which shattered the windows. Then there was silence. An hour or so later the Pakistan Army arrived and they were taken to hospital. That was how Osama bin Laden (OBL) met his end in Abbottabad around 0050 hours on May 2, 2011 according to his youngest wife, Amal Ahmad Abdul Fattah al-Saddah (Umm al-Ibrahim).

33- Sumayya, one of OBL's daughters, who reportedly also grappled with a US soldier, said she saw one of the helicopters land from her window and immediately rushed upstairs to her father's room. She was not sure whether the US soldiers entered the building from the roof or from downstairs. Everything happened very rapidly. Although she did not see her father fall, she saw him on the floor. He had been hit in the forehead and she knew he was dead. His face was "clear" and recognizable. According to her, blood flowed "backwards over his head." However, because of the dark she could not see very clearly. The American soldiers asked her to identify the body. She said "my father."

34- Her sister, Mariam, was asked the same question and she replied "Abdullah bin Muhammad." The soldiers did not understand her reference to the last part her father's full name(which was Osama bin Muhammad bin Awad bin Laden). Sumayya then told Maryam "tell them the truth. They are not Pakistanis!" Finally, they told the Americans the body was that of their father, Osama bin Laden. They were then told to stand in a corner. When they were later led out of the room Sumayya looked back and saw her father's body was gone. According to her, it was less than ten minutes from the time they were first awoken by the noise of the helicopters and the killing of her father.

35- Sharifa Siham, said she was in her room on the second floor with her son, Khalid bin Laden, when they were awoken by the helicopters. Khalid went to the window and told his mother Americans had landed. He took his weapon and went upstairs to his father. After a change of clothes she went to see the children. Meanwhile, Khalid also came down to calm them. He then went upstairs again. Shortly afterwards, an American entered her room and took out the hard disc of a computer in the room. Then another American came into the room and told them they had killed Osama bin Laden.

36- The eldest of the wives, Khairiyyah, said she heard the helicopters and saw one landing from her window. She immediately rushed up to Amal's room. She heard the voice of American soldiers and saw them wearing masks walking in the courtyard. Khalid asked the ladies to move away from the window. He had his Kalashnikov and went out of the room. When she returned downstairs she heard American soldiers inside the house. They forced their way into her room. One of them appeared to be as frightened as she was. He "looked as if he had seen a witch!" He searched her roughly and at gun point took her to the room where the other ladies and children were huddled together. More American soldiers came and asked whether this was the residence of Osama bin Laden.

37- Khairiyyah said Khalid was moving between floors from his father's room upstairs and to the ground floor to check on the children of Abrar after hearing their screams. Shortly afterwards, Khairiyyah saw her daughters brought downstairs with their hands tied behind them. Sharifa then saw the body of her son, Khalid, lying on the stairs in a pool of blood. She knelt down to kiss his forehead.

38- When they were taken down to the ground floor they saw the bodies of Abrar and his wife Bushra. Their children were in the room unharmed. She was unsure whether her husband and son had been able to fire any of their weapons. The Americans had used silencers on their weapons. When they left, one of them spoke to them in Arabic with a Lebanese accent, saying they would return in 2 hours. The ladies and children remained huddled together too frightened to venture outside the house.

39- Maryam, the wife of Ibrahim, who lived in the annexe, said she went to bed at 10 p.m. on the night of the raid. Around midnight she and Ibrahim woke to a noise of a magnitude she had never heard before. Her daughter Rahma who was in the next room was extremely frightened. Ibrahim went to fetch her and tried to calm her and the other children. He then received a call on his cell phone and asked if it was his brother Abrar, who along with his wife lived on the ground floor of the main house. But there was no answer. Ibrahim shouted into his phone, "Abrar, I cannot hear you. I am coming." At that moment, there was a knock on the door and Ibrahim asked in a loud voice, "Is that you, Abrar?" He opened the door. From outside someone fired at him through the window. He seemed to duck to avoid the bullet. But he had been mortally hit and fell to the ground. As he fell his feet hit the door he had just opened and it closed.

40- Maryam felt a bullet graze her cheek and teeth, and she felt a bullet (the same bullet or another) hit her right shoulder. She fell. One of her younger children rushed to her crying "Mother, don't die. If you die what shall we do?" She heard American soldiers shouting at her to open the door. She told them, "You have killed my husband and now only my children and I are in the room." A soldier then shouted in Arabic, "If you do not open the door we shall blow the house up." Despite her injuries she managed to drag herself to the door and open it. The Arabic speaker looked American. He then went towards the main house. The other soldier spoke to her in Urdu and told her to sit next to the stairs outside the house.

41- Maryam said she heard the Americans land on the roof of the annexe. The roof was cemented so she heard the footsteps. She also heard the rattling of the staircase railings which were outside the annexe. Two American soldiers, according to her, were on the roof and another kept guard over her and the children outside the house. Another entered the house and carried out

a detailed search of all the rooms including the godown. When the electricity returned at 003: hours,the Americans switched it off.

42- The Americans forcibly carried out a body search on Maryam and slapped her when she resisted. She cursed them saying "Allahu Akbar Alaeikum! (Literally, God is great against you!) The Americans were in the house for between 30 minutes to an hour from the time they killed Ibrahim.

43- At long last she heard vehicles entering the Compound and thought it might be the Pakistani police. She also saw other people walking around the annexe . One of them heard her son crying and called out to her in Pashto, "Sister, what has happened, and why is your child crying?" She replied, "Don't you know what has happened to us?" More people came to the window speaking Pashto assuring her that an ambulance was on the way. Then some officials entered the house. They asked her to collect some clothes to take to the hospital. Before leaving she went back to her room to kiss the forehead of her dead husband Ibrahim.

44- Maryam wanted to go to the main house to leave some of the children with Bushra. But she was not allowed to go there. She was told that Bushra was alright. She did not know Bushra had in fact been killed by the Americans.

45- The wives, children and grandchildren of OBL, the children of Abrar, and the wife and children of Ibrahim survived. OBL, his son Khalid, his couriers i.e. the brothers Abrar and Ibrahim, and Abrar's wife Bushra were killed. After the initial questioning, the wounded wife of Ibrahim, Maryam, was taken to hospital. The rest were taken away for detailed interrogation by the ISI.

46- By the time the wives, children and grandchildren were taken away from the Compound by Pakistani security forces and Amal was taken to the hospital for her wounds to be treated, the Azaan for the Fajr prayer could be heard. They were able to take only a few possessions with them. Of their valuables they could find nothing except for two or three gold "biscuits" of ten tolas each. The Americans had taken away a jewel box with twenty gold biscuits and two gold lockets with emeralds. They also took a purse that contained the will of Osama bin Laden. Khairiyyah had previously read the will but did not wish to divulge the details. She said it was not political and pertained only to personal and family related matters. Other reports suggested that the will said his children should not seek the leadership of Al-Qaeda.



Chapter 3 **Accounts of Wives of OBL and Al-Kuwaiti**

47- The accounts of the wives were largely consistent. By the time the Commission met with them they had been in the custody of the ISI for five months. They had been well treated but were desperate to be released and to return to their families. According to them, OBL had been

living in the house for six years. Asked why OBL had so few clothes considering the length of his stay, they said he was not fond of possessions. Before coming to Abbottabad he had just three pairs of shalwar kameez for summer, and three pairs for winter. In addition he had a black jacket and two sweaters. Asked about the lack of adequate security arrangements, they said OBL trusted in Allah for his protection. According to the wives, only the two Pathan brothers – Ibrahim and Abrar – guarded OBL.

48- When OBL moved about the Compound he wore a cowboy hat to avoid detection from above. He was concerned about the poplar trees on the perimeter of the Compound as they might provide cover for observers. He had thought of buying them to cut them down. Whenever OBL felt unwell (unofficial US accounts indicate he suffered from Addison's disease), he treated himself with traditional Arab medicine (Tibb-i-Nabawi) and whenever he felt sluggish he would take some chocolate with an apple.

49- OBL apparently did not discuss political matters with his wives. The elder wives were well educated and were said to have post graduate degrees in Arabic literature and Islamic Studies respectively. They maintained a very low profile and had not expected an American assault. Except for the two Pashtun brothers no one else entered the main house. Khalid, OBL's son, looked after the furnishings inside the house and the internal plumbing. Accordingly, there was no need to call in help from outside. Abrar and Ibrahim saw to the buying of food and provisions. They lived extremely frugally. The family of OBL did not mix or socialize with the families of Abrar and Ibrahim. The children did not play together. There was in fact a wall separating them. The children of the OBL family led extremely regimented and secluded lives. OBL personally saw to the religious education of his grandchildren and supervised their play time, which included cultivating vegetable plots with simple prizes for best performances.

Khairyya's Account

50- After September 11, 2001, apparently Khairiyyah travelled from Kandahar to Quetta on her way to Karachi. From there she accompanied Sharifa to Quetta again. Subsequently, from Quetta, possibly accompanied by her step-son, Saa'd, her son, Hamza, his wife, son and daughter, Khairiyyah travelled to Iran, apparently intending to go to Syria. However, they were arrested in Iran, probably Mashad. The ladies were sent to Tehran while the men were kept in Mashad. Later they joined them in Tehran. Saa'd, apparently escaped or was released from prison in Tehran, landed up in Waziristan where he was killed.

51- Sometime later, Hamza and his family left Tehran, travelled by air to Zahidan and then proceeded by road through Quetta to Waziristan. Khairiyyah stayed in Tehran for nearly eight years from 2002 to 2010 before being released. She had wanted to go to Qatar, but due to some disagreement between Qatar and Iran over issuing her travel documents she could not go there. She then apparently travelled to Zahidan and then to Mashad. From there, according to some reports, she may have travelled to Kandahar, and then to Quetta and Waziristan. There she received a letter or message from OBL informing her he was making arrangements for her to join him. She was then escorted to Abbottabad where she rejoined her husband after so many years. That was approximately three months before the American raid. Sharifa apparently stayed on in Quetta till mid 2003 and then joined OBL in Haripur from where she accompanied him to Abbottabad.

52- A number of questions arise to which satisfactory answers have not been received. How did they cross into Iran? Who made the travel arrangements? Were the Iranians aware of their entry and identity? Certainly, their intelligence and border controls seem to have been superior to those

of Pakistan. The Iranians also appear to have been quite cooperative or careless in releasing them or allowing them to escape. Why did they not allow her to proceed to Syria? What information were the Iranians able to extract from Hamza, Khairiyyah, their family and escorts? Did the Iranians maintain some kind of link with Osama through Hamza or Khairiyyah? There are rumors that Khairiyyrah was released to the Al-Qaeda in exchange for the release of an Iranian diplomat who had been kidnapped by the Al-Qaeda. Over the duration of eight years, the Iranians would have been able to build up a significant dossier on the Osama bin Laden family, their movements and connections. Did the Iranians know she would be joining OBL in Abbottabad? Did they somehow track her movements after her release? There were rumors that a tracking device was planted in her body which proved to be wrong. Did they share any information with the US? Although both countries disliked each other, they also hated Al-Qaeda for their own reasons. Do theIranians know where Hamza is today? These are the questions that the Commission did not put to the wives of OBL but the intelligence agency had the time and expertise to do so if they had wished. However it seems that our intelligence establishment has few contacts and little cooperation with their Iranian counterparts.

Maryam's story in Period before May 2

53- The family of OBL were not always aware of the exact location of the places they stayed at in Pakistan prior to coming to Haripur and, later, Abbottabad. The best witness account available was that of Maryam, the widow of Ibrahim. Her father, Naeemuddin, had been a long time friend of the father of Ibrahim and Abrar, who took him to Kuwait to work as a laborer. Her family was

from Shangla in Swat the same as her husband Ibrahim. She was married around 2001 when she was just 14 years old.

54- After marriage her husband took her to Karachi where they stayed, probably in Malir. There she attended a Walima dinner for her at the home of a Baloch woman. At the time she had no idea her husband, Ibrahim, was a Mujahid. After four months she returned to her home in Shangla for a visit and then travelled back to Karachi where their residence had changed. Ibrahim apparently visited Kuwait frequentlyor so he told her. One day he told her that he would no longer be travelling to Kuwait. In Karachi she met Amal for the first time but had no idea who she was. Ibrahim told her she was the wife of a friend of his and that she was with them temporarily because she had some problem with her passport. Amal had a baby daughter with her. While in Karachi she also met some Panjabi and Baloch women including a Panjabi lady called Umm-e-Rahma with whom she became quite friendly. Her husband, Ibrahim, used to meet with several men in the adjoining room of their dwelling. She had no idea who they were. Later, she and her husband travelled by air from Karachi to Peshawar with Amal and her daughter accompanying them. Ibrahim explained to Maryam that they were going to Peshawar to resolve the problem of Amal's passport. Amal had taught Maryam to speak Arabic.

55- From Peshawar they travelled by coach to Swat and were joined by three other persons, one a driver, another dressed in a police uniform, and third, a clean shaven man. She was asleep much of the journey and took no notice of them. All she noticed was that the clean shaven man was very tall. In Swat they stayed in a beautiful area at a house with a river flowing behind it. Across the river was the road that went to Shangla – the home of Maryam and Ibrahim. A small town or bazaar was just half an hour away from where they stayed.

56- They stayed in Swat for six to eight months during which time Amal became pregnant. Only then did Maryam realize that Amal was the wife of the tall clean shaven Arab. Her husband had discouraged her from being inquisitive. They were later joined by Ibrahim's brother, Abrar. Although older than Ibrahim, Abrar was, according to Maryam, unmarried at the time. Later he married a girl from Kohat, Bushra. The ceremony took place in Swat.

57- Maryam, of course, had no occasion to speak to the tall Arab. Once when they were all (including the tall Arab) on a visit to the bazaar they were stopped for speeding by a policeman. But her husband very quickly settled the matter with the policeman and they drove on.

58- No guests visited them in Swat, except once when a man called "Hafeez," accompanied by his wife and seven children, came and stayed with them for two weeks. Maryam immediately recognized his wife as the Baloch lady at whose place in Karachi she had her Walima dinner. A month after Hafeez and his family left Swat; they were watching al-Jazeera TV when they learned of his arrest. She asked her husband about him and he told her that he was a great Mujahid, whose name was actually Khalid Shaikh Muhammad. Ibrahim was extremely upset about his arrest. Three days later the three men left Swat. However, Ibrahim returned after two days. The next day he hired a coach and all of them departed for Peshawar with Amal. On reaching Peshawar, Amal separated from them. Maryam and Bushra proceeded to Kohat. Bushra went to her father's house while Maryam stayed at her sister-in-law's i.e. the sister of Ibrahim. Her name was Haleema. She was married to a man called Yasin Afridi. Maryam stayed in Kohat for three months. During that period Ibrahim was away. That is when she began to realize that her husband was a Mujahid of Al-Qaeda, although apparently she still did not guess the identity of the husband of Amal. She tried to probe Ibrahim but he firmly told her not to press him for details, and not to be too curious.

59- During Ibrahim's absence from Kohat, Maryam and Bushra were taken to Naseem Town, an area on the outskirts of Haripur. It is not clear who escorted them to Haripur. On reaching there they found their husbands, Ibrahim and Abrar, waiting for them. In addition, Amal was also there. So too were Sharifa Siham, her son Khalid bin Laden, and Mariam and Sumayya, the two daughters of Osama bin Laden. Amal told her she had stayed in Peshawar after they separated and from there she had come to Haripur. The tall Arab was also there. Presumably, Ibrahim and Abrar had been involved in making the travel arrangements of the OBL family. Whether or not OBL also stayed in Peshawar with Amal is not known.

60- In Haripur (Naseem Town) they lived in a big house with two hallways, three bedrooms, a lawn, etc. They stayed there for two years, during which time Amal twice gave birth to children. She went to a private clinic for the delivery but never stayed overnight. She was taken there by Abrar and Bushra who told the lady doctor that she was deaf and dumb ("goongi"). Apparently, the lady doctor did not suspect anything significant enough to report. Ibrahim's mother visited the house from Kuwait and then went to Kohat to visit her daughter, Haleema. Ibrahim, Maryam and Bushra accompanied her to Kohat. The mother wished to stay with her sons who promised to build her a house. When Ibrahim accompanied his mother, wife and sister-in-law to Kohat, Abrar presumably stayed behind to guard OBL. Maryam said the brothers seldom ever spent the night away from OBL.

61- The men watched TV with a dish antenna to catch al Jazeera. They never used their mobile phones in Haripur. To make calls the brothers would visit Peshawar or Rawalpindi, possibly even Hassan Abdal, and they used public call booths. No guest ever visited Osama bin Laden in Haripur. Apparently, he had terminated all personal contact with Al-Qaeda fellow Mujahideen after the arrest of Khalid Shaikh Mohammad. The men often dined together and ate the same

food. Osama paid each brother Rs 9,000 a month plus additional money as zakat as well as gifts from time to time. In Haripur, Maryam and Bushra frequently went to the parks and the bazaar. In 2005 they all moved to Abbottabad.

62- Maryam had four children. The eldest was her 9 year old daughter, Rahma. One day, she asked her father why "the uncle who lives upstairs" in the main house never went to the bazaar. Ibrahim invented a story that he was too poor to go out and buy anything. From that day Rahma referred to him as "Miskeen Kaka," i.e. poor uncle. Rahma used to visit the main house to take lessons from Sumayya. Later, Rehma accidently came across OBL on the staircase of the main house and greeted him. After that, her interaction with the OBL family came to an abrupt end.

63- Unlike in Haripur, the womenfolk in Abbottabad initially had access to TV. However, one day while watching al Jazeera a picture of Osama came on the screen and Rahma immediately recognized him as her "Miskeen Kaka" who lived upstairs in the main house. Ibrahim panicked and was very upset with Maryam. He immediately stopped the ladies' access to TV. This episode also put a stop to the interaction between the OBL family and the family of the two brothers.

After Rahma identified OBL on TV as "Miskin Kaka," Ibrahim in a state of panic stopped his family from watching TV. Maryam demanded an explanation as well as the real identity of the so called the "Miskin Kaka" who was always referred to as the Sheikh. He told her it was none of her business but she complained he did not trust her and stopped talking to him. Ibrahim at last confessed to Maryam that their daughter wasright. Miskeen Kaka was none other than Osama bin Laden. Maryam asked Ibrahim howhadhe taken upon himself such a huge responsibility to serve and protect such a wanted man. Ibrahim said it was the will of Allah that he should have this mission. She told Ibrahim she was not scared by the prospect of his

martyrdom. But she did fear his arrest and torture. She would rather he was martyred than captured. In order to reassure her, Ibrahim apparently said he would be soon be relieved of his current responsibilities and given some property in Saudi Arabia or elsewhere to compensate him for all his services

64- According to Maryam, OBL reposed complete faith in her husband Ibrahim who had been with him ever since he was introduced to him by Khalid Shaikh Muhammad. Ibrahim and Khalid Shaikh Muhammad had practically grown up together in Kuwait and were as close as brothers.

65- Maryam said the purdah observed by the OBL women was so strict that as soon as their girls reached the age of three years they began to observe it. The ladies of the house would go to the extent of observing purdah from men shown on TV! Maryam and Bushra did not have much social interaction with the ladies of the OBL family. They would visit them for just ten to fifteen minutes a month accompanied by their children. They visited Amal and Sharifa separately. They never visited Khariyyah. She had, of course, only arrived in Abbottabad three months before the raid. She never came to Haripur.

66- Ibrahim and Abrar taught their own children who did not go to school. The brothers did their daily chores and spent the night in the Compound. As mentioned the exceptions were only when one of them accompanied their womenfolk out of town. OBL never left the premises. Occasionally, according to Maryam, he complained of pain in the heart and kidneys. But he never visited a doctor. During their six year stay in Abbottabad, Maryam never once saw OBL! Khalid occasionally visited a dentist. No visitors ever came at night. Presumably she meant no visitors came at all. The men, including OBL, offered their Friday prayers together on the ground floor, where they often discussed matters amongst themselves.

67- Maryam's last visit to Shangla lasted seventeen days and she returned just three days before the American raid on the house.

68- Maryam said only Ibrahim, Abrar and she were aware of the identity of Osama bin Laden. According to her, Bushra never knewthat the Sheikh,who was living on the top floor of the main house and had been with them for so many years,was Osama bin Laden.

69- Since the TV incident five months before the fateful night, Bushra and Maryam had stopped visiting the main house. Ibrahim and Abrar told their families that "the Sheikh" and his family had gone away. Both Osama bin Laden and Ibrahim were not happy with Maryam's visits to Shangla and Bushra's more frequent visits to Kohat. According to Maryam, she and Bushra told their families whenever they visited them that they had come from Kuwait. In order to make the story plausible they bought gifts of cloth and clothes saying they were purchased in Kuwait. Finally, Maryam had allegedly told her mother she was not happy in Kuwait and had moved to Peshawar.

70- While the children of Ibrahim and Abrar were free to go outside the Compound, the children of Osama bin Laden always stayed inside the premises. They were very quiet. Khalid looked after a cow he had bought and Abrar would bring fodder for it. A man called Shamraiz who lived close by, was hired to plough the field for planting vegetables. He apparently also sold the cow to Khalid bin Laden. But he never met Osama bin Laden or any other member of his family.

71- Maryam also commented on the vaccination issue, saying that once a female nurse came to the house and administered polio drops to her children, but not to the Arab children. She did not recall anyone coming inside the house for vaccination. Nor wasShe aware whether anyone came

for vaccination during her absence from the house. She also noted that when the children fell ill, they were taken to a Dr. Mehar Dil Wazir, a child specialist in Abbottabad.

Commissions Observations

72- While Maryam's testimony was generally credible, some parts were suspect. According to some reports the place in Swat where OBL stayed and met with Khalid Shaikh Mohammad was not unknown. It was her father's house in Shangla. This is not confirmed. The ISI however, has not provided any concrete information on this point. If it was the father's house it would potentially provide a great insight into the OBL support network.

73- Moreover, her claim that Bushra never learned about the identity of OBL till the day she was killed and that their children were fooled by the story that OBL or 'Miskeen Kaka' and his family (comprising 15 to 16 persons) had "gone away" soon after the TV incident when Rehma, recognized 'Miskeen Kaka' on TV lacks credibility. The TV incident happened several months before the raid. During that time the children would certainly have sensed whether or not the main building was empty especially as 16 persons were living in it. Moreover, Abrar and Bushra and their children lived on the ground floor of the main building itself and could not possibly have been deceived. It is strange that the ISI did not question such an unconvincing story.

74- Moreover, if Bushra, like Maryam, became aware that her husband was also a Mujahid of Al-Qaeda, and that the "Shaikh" was OBL, and she visited her family often enough to worry both OBL and Ibrahim, this could suggest that information about the presence of OBL in the Compound may have leaked from the Compound itself. The ISI was unable to develop any reliable information on this aspect.

Chapter 4 US Operation Neptune Spear

US raid on Abbottabad

75- Based on observations made during field visits, materials recovered and the evidence provided by a wide variety of witnesses and technical experts, the Commission has reconstructed the broad outline of the American raid on Abbottabad of May 2.The US Special Forces used Jalalabad in Afghanistan as their forward operating base to launch Operation Neptune Spear. In all, they used four helicopters, which included two stealth Black Hawks in the lead, followed by two Chinooks with some time differential. Twenty four SEAL members were probably involved

in the operation, in addition to the crews of the helicopters. The raiding force had night vision devices, weapons fitted with silencers, and helmets for protection; it also contained some Pashto and Urdu speaking people along with a dog according to published accounts. The helicopters entered Pakistan's airspace between Ghursal and Shilman in Khyber Agency between approximately 2315 and 2330 using "nap of the earth""terrain masking" (i.e. rapid and low flying) techniques to avoid radar coverage. They were aware of the deployment of the radars and their radius of coverage. They flew over the riverKabul, Chakdarra, Kala Dhaka and Abbottabad. Three of the four helicopters proceeded to Abbottabad for the raid operation, while a Chinook landed and stayed in Kander Hassanzai, Kala Dhaka (TorGhar) to provide refueling to the helicopters on their return and possibly to observe any signs of a Pakistani military response.US Navy SEALs carried out the operation and the US Air Force maintained a combat air patrol with an AWACS on the Afghanistan side of the border, in order to respond to any possible threat of interception from the PAF.

76- There was no presence of the Pakistan Army in the areas over which the US mission entered Pakistan's airspace and flew all the way to Abbottabad. The distance between Army posts along the border was approximately 20 miles. Some of the US pilots may have directly or indirectly benefitted from the US flood relief air operations of August-October, 2010 in the same general area. It is noteworthy that during this period (August-October 2010) the Americans had also identified the OBL compound in Abbottabad as his likely residence by tracking the movements of Ibrahim and Abrar.

77- The helicopters reached Abbottabad around 0030 hours - a flight from Jalalabad, Afghanistan, of approximately an hour and ten minutes. The raid commenced at approximately 0032 hours with the fast roping of the Navy SEALs on to the compound.

78- One of the helicopters, after discharging troops on the roof top of Ibrahim's Annexe, side slipped towards the open Compound after it either encountered unanticipated weather stroke temperature conditions or it developed some technical fault. As a result,the helicopter made a hard landing that rendered it unfit for further flying. The other stealth helicopter dropped a team of Navy SEALs on the western side of the house.Around 0040 hours, two more helicopters, probably Chinooks, also flew in and their noise was picked up by residents of Abbottabad, including by the security guards at the main gate of the PMA. A Chinook landed in the fields on the eastern side of the OBL compound.

79- Ibrahim's annexe was stormed first, followed by an attack on the main house in quick succession by a small group of Special Forces, who blew away four iron gates with explosives to make their way up the house from the ground floor. When theNavy SEAL's landed, there was no electric power in the Compound and its surrounding areas.According to WAPDA's records the power was restored at 0035 hours by which time Ibrahim had already been killed and his Annexe was being searched.

80- In the meanwhile, the troops from the second helicopter divided into two groups. A cordon group remained outside the compound along with the dog and one of the Pashto speaking members of the US team kept the people away telling them that a security operation was underway. This was meant to suggest that a Pakistani Security operation was underway. This also meant that some members of the public had gathered next to the compound during the US raid operation.

81- On hearing the soldiers coming up the stairs,OBL reportedly went towards the door to see what was happening and was shot at by the US soldiers.Accounts differ as to whether he was

killed by the first shot fired at him or later when the soldiers stormed the room. He did not use his wife or daughter as a shield to protect himself. He was not armed when he was shot.

82- It had taken the US Special Forces approximately 36-38 minutes to complete the killing operation. Approximately 30 bullets were fired. All this time, one Chinook and one stealth Black Hawk kept circling the Abbottabadvalley and came to theCompound after the killings were completed and materials were collected. The disabled Black Hawk was prepared for destruction. The US Navy SEALs, carrying the body of OBL, boarded the helicopter and as soon as they were airborne, the downed Black Hawk was blown up at 0106 hours.The body of OBL according to some American accounts[7] was loaded on to the Black Hawk helicopter which landed at Kander Hassanzai for refueling which took about 10 minutes to complete. It then flew with the Chinooks back to Afghanistan, exiting Pakistan's airspace at 0226 hours.

83- The Pakistan Army Board of Inquiry informed the Commission that the stealth helicopters were probably guided by ground operators who were already in place around the OBL Compound. In this regard there were reports of "suspicious activities" indicating CIA ground support for the planning and implementation of the raid. These included the cutting of trees to clear the approach of the helicopters, the hiring of a house in the vicinity of the OBL Compound by supposed USAID employees, and the movement of four to five Prado/Land Cruisers from the US embassy in Islamabad towards Peshawar/Abbottabad. The US embassy personnel coming from Islamabad and seen headed towards Abbottabad may have been CIA agents to assist the helicopters.

Table of Events on the nightof May1/2, 2011

[7]Mark Owen in his book "No Easy Day" maintains that the Black Hawk carrying OBL's body got airborne first, followed by the destruction of the unserviceable Black Hawk and finally, the reserve Chinook landing and picking up the rest of the SEALs.

84- The sequence of events on the night of the operation as reconstructed by the Commission, based on the evidence presented, is as under. All timings are in accordance with Pakistan Standard Time.

US forces take off from Jalalabad	2300-2310
Enter Pakistan airspace	2320
Two Black Hawks reach Abbottabad	0030 (electricity in the area returns at 0035)
One Black Hawk becomes unserviceable after fast roping troops	0030-0035
Noisy Chinook arrives as replacement	0040
Conduct of operations	0030-0106
Airborne, one Chinook and one Black Hawk:	0106
Unserviceable Black Hawk blown	0106
QRF, Mobiles and Police arrive at the scene	0115-0130
COAS speaks to CAS	0207
Chinook exits, flying straight	0216
Black Hawk and refueller Chinook exit	0226
F-16 gets airborne from Mushaf base	0250
COAS speaks to the PM and Foreign Secretary	0300/0310
Admiral Mullen calls the COAS	0500
COAS informs the President	0645

85- It is not possible to be completely precise about the timings because:-

a- Members of the Commission were not witnesses to the event,

b- There were differences among the local communities regarding the timings and the timings given by some American accounts were at slight variant from the table above. If the helicopters reached Abbottabad at 0030 hours, it may not be accurate to say that the operation at the OBL compound commenced at the same time and that Ibrahim was killed within three minutes of the mission reaching Abbottabad. It is more likely that the sound of helicopters approaching Abbottabad were heard at least 10 minutes before the operation commenced on the ground, especially considering that one of the helicopters crash landed and all its passengers had to safely exit.

Chapter 5 Residents and officials of Kala Dhaka / Tor Ghar

Abdul Munaf, resident of Kandar, Hassanzai

86- He met with the Commission in Kandar, Hassanzai on September 29, 2011. He was reported to have been an eyewitness to the landing of two U.S. helicopters on the night of May 1 and 2. However, he denied being an eyewitness to the Commission and admitted to only being woken up by the noise of the helicopters. His neighbours said that he was ashamed to admit that he had been tied up by the Americans. He was later summoned by the Commission to Abbottabad where he admitted to having walked toward the helicopters which had apparently landed on an area near his crops. He tried to greet the Americans thinking that they were Pakistanis. He was surrounded by them and tied up, and was later released. It was not clear whether he was released

as the helicopters flew towards Abbottabad or back towards Jalalabad. Most likely, he was kept tied up and under guard for the duration of the operation.

Commission's Observation

87- He first told the Commission he saw nothing of the helicopters that landed near or in his field. Later when summoned to Abbottabad, he went back on his story and admitted he was detained by the US Navy SEALs. There was no proper explanation for his lying to the Commission on the first occasion other than he felt pressured to do so. By whom? There may, however, be perfectly innocent explanation that he was too embarrassed to admit to being tied up by the Americans.

DCO District Tor Ghar

88- The statement of DCO Toghar, was recorded on September 29, 2011 by the Commission. He stated that on May 2, 2011 he received information from the Administrator, Kala Dhaka about the landing of two helicopters on the left bank of river Indus near Kandar Hassanzai, which was reported to Commissioner Hazara Division. The statement of eye-witness Abdul Munaf was recorded by the Administrator Kala Dhaka. The DCO visited the place of occurrence and interviewed the locals of Kandar Hassanzai. The landing of two helicopters was confirmed. The Commissioner Hazara Division accompanied by DIG Hazara Division visited his office at Oghi on May 19, 2011 and questioned Abdul Munaf and Abdul Khaliq who also confirmed the above information.

Commission's Observation

89- The Commission found it strange to be told that the Commissioner, Hazara Division took 17 days to visit Torghar and meet with locals and officials to ascertain basic information with regard

to the US helicopters that used the area as a refueling and observation site. It was indicative of the unhurried and laid back manner in which local officials discharged their duties.

DPO, Tor Ghar

90- DPO Torghar, met with the Commission on September 29, 2011. He assumed formal charge as DPO on March 2, 2011, but took up his assignment on May 5, 2011, on receiving information about the landing of helicopters. The matter was reported to the DIG. No police force was available in Torghar and all matters were managed by the Administrator, Kala Dhaka.

Commission's Observation

91- He informed the Commission that after Torghar became a separate district no police force had as yet been assigned to it. Though not directly connected with the May 2 incident it was also indicative of the manner and environment in which security officials discharged their responsibilities. Needless to say, Torghar was not unique in this respect.

Chapter 6 Local Civil Administration Officials, Abbottabad

XEN Operations, PESCO, Rural Division, Abbottabad

92- Commission met with the XEN Operator, PESCO, Rural Division Abbottabad on September 29, 2011. According to him four single phase electricity connections were provided to different portions of the OBL Compound in the name Muhammad Arshad (i.e. Abrar) from an independent privately owned transformer on a full cost deposit basis. All the meters were installed on a pole erected outside the premises.Similarly, the house had four separate gas meters. The gas meters were applied for in the name of a Sahib Khan s/o Noor Hussain who was neither the owner nor the occupier of the house. Apparently, Sahib Khan had lost his NIC which was found and used by Ibrahim or Abrar. If sahib Khan lost his NIC while working in the Compound, did he not contact the brothers to try and find it? Did the ISI interrogate him? The

Commission was not able to meet him. The gas consumption pattern was reportedly normal over the past five years. The austere living conditions and the division of consumption among four meters may have contributed to this pattern. However, for the period from December 2010 to February 2011, gas consumption doubled. This, of course, was the coldest period of the year.

93- With regard to the provision of cable service, the provider wanted to lay the cable on a pole adjacent to the house but was told to use another pole instead. After the incident of May 2 the "cable service provider" while watching on Discovery TV saw OBL watching an Arabic channel[8] which he had not provided through cable. There was, however, a dish antenna in the Compound through which Arabic channels were available. Asked whether or not he believed OBL lived on the premises the cable operator said he was sure he did live there. This appeared to be a minority view among the inhabitants of the area.

Commission's Observations

94- The installation of 4 separate meters for electricity and gas respectively for apparently just two families (that of Ibrahim and Abrar) staying in the OBL Compound went unnoticed. It was clear to the Commission that so many meters were installed just to ensure that none of them would indicate any excessive consumption of gas and electricity that could be noticed. But the XEN (Operations) should have immediately noticed the ruse. He should have concluded that there were many more people living in the Compound secretly and conveyed this to the security/intelligence authorities for any follow up actions considered necessary.

Director, Office of Revenue

[8] In most reports the Compound had no TV cable, only a dish which provided Al Jazeera, etc.

95- The Director, Office of Revenue (DOR), Abbottabad, met the Commission on September 29,2011. He said the purchase of the OBL Compound was done by Abrar using the name of Muhammad Arshad. Asked if any precautionary measures at the time of registering the mutation of the land (i.e. change of ownership title), were taken in view of the influx of outsiders including possibly undesirable elements, he said the buyer was a Pakistani and under the Land Revenue Act he could not be denied the right to purchase land for the construction of a residence. However, foreigners were not permitted to purchase property. Only the number of the (fake) NIC was recorded. The DOR said the procedure followed in the purchase of the land was "in accordance with the rules other than failing to make sure of the real identity of the purchaser." He admitted the mutation should have been done during the "Jalsa-e-Aam" or general consultation meeting as part of the required process. To that extent, due process was not followed, which according to him, was "technically and illegality". The DOR said there was no coordination between the Cantonment Board and the Revenue Office. Moreover, no inquiry was conducted into the background of the buyer. There was, however, "nothing unusual about such lapses."

Commission's Observations

96- He was responsible to ensure that unidentified foreigners did not purchase property in a Cantonment area. "Arshad", the brother of Ibrahim, also bought the land using a false National Identity Card which was accepted in spite of the fact the NICs had been replaced by Computerized National Identity Cards (CNICs) – just another minor lapse! Or was it part of a larger and not so random set of administrative lapses. Any of these lapses would in the circumstance be perfectly understandable. But the whole lot taken together added up to something that should not be so easily explained away. Even so, none of this added up to proof

or even strong probability of mischief. But taken together they suggested the possibility of something more sinister.

DCO Abbottabad

97- The DCO (District Coordination Officer) of Abbottabad heads the district administration and as his title suggests he coordinates the activities of other government departments in the districts. He also headed the District Intelligence Coordination Committee (DICC) which shares information with local security officials. However, the subject of OBL's possible presence in the district was never discussed by the DICC. No information regarding the possible presence of OBL was ever brought to his notice. Nor did he ever receive any instructions on the matter from the Provincial Government. The DCO said "there was complete silence" from the Provincial Government. With regard to a CIA directed fake vaccination campaign as cover for the hunt for OBL, the Home Secretary was aware of the vaccination campaign, and at the request of the Director of the Provincial Health Department even asked for health workers to be provided for it. He had no idea, however, of the connection between the vaccination campaign and the CIA search for OBL.

98- According to the DCO, OBL had probably only come to the Compound two weeks or so before the US raid. The very few clothes of OBL that were found suggested only a short stay. The modest amount of electricity consumed, the small quantity of dry rations and of food stored suggested the place could not have been an extended hideout for OBL and his family. The DCO thought OBL must have changed his location frequently to reduce the risk of detection. Moreover, there were no elaborate security arrangements and no escape route from the building. When the Americans bombed Tora Bora, 149 Arabs who were crossing the border into Pakistan

were arrested. They were said to be the guards of OBL and had indicated that, OBL "had gone North." This suggested he remained in Afghanistan. (This could have been deception. Also the story of the 149 Arabs does not seem to have been checked out. If they were indeed arrested there can be no doubt the CIA would have had access to them).

Commissioner, Hazara Division

99- The Commissioner of Hazara Division met with the Commission on September 30, 2011. He said he was not responsible for counter terrorism in the area. His job was law and order. There had been a feeling among the community that some suspicious people in the area could disturb the law and order situation. While there had previously been talk of the possible presence of Baitullah Mahsud, he had not heard of anyone mentioning OBL. He was personally of the view that OBL had not been present during the US raid. He acknowledged there were orders regarding the registration of "outsiders" settling in the area. But there were no proper investigations of people buying and renting houses.

Chapter 7 Cantonment and military Officials, Abbottabad

Director, Military Land and Cantonments

100- The Commission met with the Director, Military Land and Cantonments (MLC), Rawalpindi Region on November 1, 2011. He said Abbottabad came under the Rawalpindi Region of the MLC. He was the inspecting and controlling authority of the Cantonment Board, Abbottabad and all records relating to municipal control of lands and property under the Cantonment Board Act of 1924 were maintained by the local Cantonment Board. The Station Commander was the official head of the Cantonment Board and oversaw the performance of the CEO of the Board. The Garrison Commander also supervised the performance of the CEO. The DG MLC and the Director of the concerned Region carried out periodical inspections and also assessed the performance of the CEO. Similarly, the local ISI made independent reports to the DG MLC.

101- He admitted that records pertaining to the Compound of OBL had been examined by him. He also discussed the matter with CEO, Abbottabad. The CEO at his direction visited the OBL Compound and found that the 3rd floor of the house was built without authorization. It had not been noticed due to limited staff. He said that after having gone through the records, negligence on the part of the concerned staff was apparent.

102- The attention of the Director was invited to various flaws such as failure to inspect the location during or after construction, absence of a completion certificate, failure to pursue the owners regarding the payment of property tax, and unauthorized construction. He admitted that this was all a case of negligence but once again the main reason for it was limited staff.

103- According to the Director, "ten years of bad rule in the Department had destroyed it." A non-professional (a retired Brigadier), who knew very little about the job, according to him was appointed head of the Department. No action was taken against the CEO. An inquiry into the matter had now been initiated.

104- In answer to a question, he said no significant corruption in the Cantonment Board had been detected. However, individual officers held charges in two or three Cantonment Boards simultaneously because of staff shortages. The workload had also increased enormously with the increase in population and the influx of outsiders into the area. While, residential construction had increased significantly, the number of staff remained the same. Similarly, the salaries of staff had increased without any corresponding increase in revenues. Accordingly, the financial resources of Cantonment Boards were depleted and as a result the staff strength could not be enhanced to meet the increased workload. The unauthorized construction of the OBL Compound and violations of rules and regulations were a result of these circumstances. According to the

Director this involved a degree of negligence. It was not deliberate. He estimated seven to eight thousand properties in the Abbottabad Cantonment were unlisted with the Cantonment Board.

Commission's Observations

105- In the purchase of land and building permission etc. for the OBL Compound in Bilal Town, there were multiple oversights and violations of laid down procedures on such a scale that even allowing for the general deterioration in administration and oversight standards it still appeared to be more than just a case of negligence. There were explanations that the building was a private construction on land, and the MLC generally had "a soft corner" for private owners rather than temporary rentiers living in the Cantonment area, etc. either OBL was extremely fortunate to not to run into anyone omitted to doing his job honestly, or there was a complete collapse of local governance.

CEO, Cantonment Board, Abbottabad

106- The Chief Executive Officer (CEO) of the Cantonment Board of Abbottabad said that a building plan was submitted by the buyer of the property who provided all the required details in the prescribed form. According to the Revenue Office, the land was private land although it fell within the limits of the Cantonment. The building plan was submitted for a two storey house which was approved by the Board. A tax assessment notice was issued. The record, however, showed that no tax was paid. Other than filling up the prescribed form along with a copy of the applicant's (fake) NIC, no verification was done. No authentication of the details provided by applicants was done as a matter of common practice despite the formal requirement to do so. Copies of the NIC and details of the land to be purchased (the fard) were normally considered sufficient. An inspector of the Board would then visit the building site to ensure that the

documents and building plans were in accordance with the Cantonment bye-laws. If everything seemed okay a recommendation for final approval by the Board would be made.

107- A three storey house was eventually constructed and the boundary walls, in places, were much higher than regulations permitted. No further inspection visits were made. A three storey house was a violation of the laws of the Cantonment Board. But a lot of illegal construction activity took place within the Cantonment area.

108- Regarding tax on property, a grace period of one year was allowed. But there was no correspondence on the subject available with regard to the OBL Compound. No action was taken against the staff for this level of negligence with regard to the collection of taxes. It was common for the collection of taxes to be neglected. Similarly, it was common for unauthorized constructions to take place and be regularized later.

Commission's Observation

109- Apparently no tax on the building in the OBL Compound was ever paid and no action was ever taken against any of the staff for the oversight. This was explained as normal negligence. Similarly the violations of procedures for the purchase of the land and the construction of the 3 storey building and its high walls in violation standing regulations were described as "technical illegalities". The CEO vigorously denied any suggestion of collaboration or complicity which of course could not be established, and may well not have occurred. But this collection of "abdication of responsibilities" created a dense fog in which anything could have happened.

Security Officer, PMA

110- The Security Officer of PMA claimed to be the first to reach the site of the incident. On reaching the site, the area was sealed and an immediate search was started, with the Commandant PMA arriving on the site at around 0140 hours. On entering the house, the Security Officer PMA said he saw two dead bodies (one male and one female) and another male dead body lying on stairs. There were other women and a number of children in another room. The dead and injured were evacuated to CMH, Abbottabad and the survivors were handed over to the intelligence agency. He stated the Police were present and should have conducted their own investigation. They were not stopped from doing so.

Commander, Quick Reaction Force, Abbottabad

111- The Commission met the Commander, Quick Response Force (QRF) 19th Frontier Force Regiment, Abbottabad, on September 14, 2011. He said he received information from the Pakistan Military Academy guards and Security Officer about the sound of helicopters at 0040 hours on May 2. He heard the sound himself and informed his Commanding Officer. At about 0105 hours as he and his CO moved towards the PMA along with the QRF they heard a loud blast. The CO directed that the Garrison Headquarters be asked to send ambulances and a fire brigade. They were informed that a helicopter had crashed in Bilal Town. As soon as they reached the site of the blast they were joined by the Commandant of the PMA who was also the Garrison Commander. He ordered the area to be cordoned off.

112- The Commander said his primary responsibility was to protect the PMA. He was asked whether he thought entering the crash site was beyond his responsibility of protecting the PMA.

He said he entered the premises on instructions from his CO. At first they had moved into action because they thought a helicopter had developed some trouble. They found a helicopter burning in the Compound and a patrol was busy putting the fire out. Some local people had gathered around the premises but had not entered it. The ISI arrived after the QRF while the local police had not yet arrived. They arrived ten minutes later and were asked to set up an outer cordon to prevent local people from coming into the premises. The Commander was asked whether the local police or administration were prevented from entering the building. He replied in the negative. He said they never sought permission to enter the Compound.

113- He also said that the Commandant, PMA who was the Garrison Commander was responsible for the area. The Police reached the place of occurrence at about 0130 hours while he arrived at 0140 hours.

Commandant, PMA

114- The Commandant PMA met with the Commission on September 13, 2011. He told the Commission that he arrived at the scene of the incident ten minutes after the Police at around 0145 hours. At first they thought it was a Pakistani helicopter that had crashed. There were no immediate indications of gunfire or of a raid. Nevertheless it was strange because Pakistani helicopters did not usually fly at night. There were also no immediate signs of the presence of any women and children. They had no idea that there were dead bodies inside the buildings. He gave a detailed account of the measures adopted on ground by the QRF of PMA, local police and other security agencies.

115- The Commandant PMA was asked why the laid down procedure in CRPC was not followed and no FIR lodged. The Police was mandated to conduct investigation and collect evidence and

not the ISI. Why was the Police not allowed to do its job? He replied that the Police authorities were present and it was for them to comply with the necessary legal formalities. He also explained that as Garrison Commander he needed to put the Garrison on alert in such a situation. He also denied that local people entered the premises.

Commission's Observations

116- A careful scrutiny of the statement of Commandant, PMA shows that the Police and civil administration were not allowed to perform their duties in accordance with the law and were asked to form an outer cordon outside the Compound to prevent the public from entering. The Commandant may have been following instructions from his military superiors but he exceeded his authority even if he was directed by the GHQ to take charge of the scene and to hand over the investigation to the ISI. This situation which has endured for many years, however, justified, tends to undermine the credibility and performance of other institutions that are formally required to discharge their duties in all circumstances.

Local Commanding Officer, ISI

117- The local Commanding Officer of the ISI said his primary responsibility was counter-terrorism.The raid took place in his area of responsibility. His detachment had earlier "smashed Umar Patek's network" and arrested him on January 25, 2011. But he had not noticed any "facilitative activity" in the area with respect to the OBL Compound. He was tracking Al-Qaeda elements in the area for the past two years.The facilitator of Umar Patek lived in the Aram Bagh area and on a tip-off the ISI had raided his house and found Umar Patek. He had been in the area for a month and had been living in Aram Bagh for ten days. He had not contacted OBL.

Commission's Observation

118- With regard to the capture of the Bali bomber Umar Patek in Abbottabad reportedly in January 2011, it was very likely that his Al-Qaeda support network had contact with the Al-Qaeda network of support for OBL. The local ISI did not probe this possibility although it had been tracking Al-Qaeda in the area for at least two years. During this time it did not solicit the cooperation of the civil administration including the police. The interrogation of the Umar Patek network members should have turned up actionable information. What had brought Umar Patek to Abbottabad? Had he come to meet OBL as his Indonesian interrogators later claimed? Still later reports suggested that, Patek denied coming to meet OBL in Abbottabad, and claimed he was on his way to Afghanistan to participate in the Jihad against the US occupation. This story, however, seems far-fetched. He was far more "useful" to his cause in his own area. No information regarding the interrogation of Umar Patek was shared with the civil administration. Nor it seems did the ISI itself obtain any useful information before he was extradited to Indonesia.

119- We know from Maryam, the wife of Ibrahim, that after the arrest of Khalid Shaikh Muhammad, OBL had decided not to meet Al-Qaeda personnel in person. It could be that Patek came to meet OBL but was unaware that OBL no longer met Al-Qaeda members for fear they were being tracked by intelligence agencies and could unwittingly compromise his own security. It seems the ISI never developed any real intelligence on what Umar Patek had come to Abbottabad for beyond the romantic story of going to Afghanistan to seek martyrdom. Moreover, Abbottabad does not lie on the usual routes to Afghanistan. Did the CIA have access to Patek during his detention in Pakistan? If not, they would certainly have had access to him in Indonesia and may have extracted far more information from him than the ISI was able to. It

would seem very likely that Patek, despite his denial, had come to seek instructions or inspiration from OBL. If so, it shows that Patek knew where to look for him.

120- The Abbottabad area was known to have a strong conservative, religious and even militant presence, especially that of the Sipah-e-Sahaba. Moreover, according to the local ISI, in Dam Tor and Nawan Sheher (where the OBL Compound was located) it was known that Al-Qaeda elements were active and HVTs like Abu Faraj and Abu Turab had resided there. In fact the residence of Abu Faraj-al-Libbi had been raided at a distance of only a kilometer or so from the OBL Compound. So the disconnect between the civilian and intelligence administration seems to have been complete: the civilians by and large unaware of the extent to which the Abbottabad area was penetrated by militants including Al-Qaeda, and the local ISI well aware of their presence but unwilling to share information that might have made the whole counter terrorist effort, including the search for OBL, more effective.

Chapter 8 Local notables, Abbottabad

Shamraiz s/o Zain Muhammad

121- Mr. Shamraiz S/o Zain Muhammad met the Commission on September 15, 2011. He stated that he has been living in Bilal Town since 2005 along with his parents, wife and children in his own house. The OBL Compound is located in front of his house where two persons namely Abrar and Ibrahim were residing along with their families. They had come before the earthquake of 2005 and constructed the house in phases after purchasing land. He said he used to visit the house occasionally as a laborer and was paid Rs. 350 as and when asked to work. He never entered the house because the ladies observed pardah. He said he never saw any strange vehicle or person come to the house.

122- Shamraiz also highlighted the details of the incident and stated that on hearing the blast he came out of his house and saw a helicopter on fire in the Compound adjacent to the house.

Gradually people of the vicinity started gathering. Meanwhile the Army and Police also reached the spot. He did not see any dog or any of the assailants speaking Pushto. He was detained by the ISI for about 18 days. The Army then kept him for four days. After his release he learnt that OBL was residing in the Compound. He had never seen OBL there. He stated that Ibrahim and Abrar were the only known residents of the house along with their families. The brothers used to offer their prayers regularly in the nearby mosque and their conduct was polite and kind. His movements were restricted to the outside portion of the house as Abrar and Ibrahim told him that they were pardah observing people.

Major Amir Aziz

123- The testimony of Major Amir Aziz was recorded on October 25, 2011. He wasreluctant to appear before the Commission. But when informed of the consequence of refusing to do so, he came and offered his apology.

124- According to the testimony of Major Amir Aziz who lived in the neighborhood of the OBL Compound, at about 0030 hours he heard the noise of helicopters and saw two helicopters flying very low. He saw a Chinook landing at the back of the OBL Compound. He also saw a Black Hawk landing inside the Compound and another in descent outside the Compound. The Major said he saw soldiers in camouflage descending from the Black Hawk helicopter hovering over the OBL Compound. According to him, he saw one of the Black Hawks crash landing. He thought there might have been a third Blackhawk helicopter. At around 0040 hours Major Aziz said he heard gun shots which he thought were of M-16/M-4 weapons. Around 150 shots were fired according to him. This was much more gunfire than what the Army investigation report

concluded. In between the sound of gunfire the major heard five muffled sounds of small charges. There were no cries of women or children that he heard from the house.

125- The weapons firing lasted continuously for about 10 to 13 minutes according to the Major (who seemed to be keeping an exact account of the time). Then there was complete silence from 0058 to 0105 hours when there was a loud explosion which shattered the windows of his house. Major Aziz told the Commission that at the time of the incident, he was a serving officer and on seeing the helicopter, he spoke to his Administration Officer Major Adnan.

126- The Commission asked Major Aziz that as serving officer why did he not try to visit the scene of the incident to ascertain what was happening. He said that he had informed his Commandant, a Brigadier Shuja through his Administration Officer, Major Adana, and sought instructions. Major Aziz said, he was told to remain in his house as the situation was not clear. His first impression was that the PMA might have been attacked and that Pakistan Army helicopters had been called in for some kind of rescue operation. (It was clear from Major Aziz's description that the OBL Compound, which was visible from his house was under attack, which he described in detail. It is not clear how he thought that the PMA was under attack.)

127- With regard to the OBL compound, Major Aziz said that similar house were constructed in the vicinity and there was nothing unusual about it that should have attracted attention. However, he did mention the barbed wire on the boundary walls and he felt that the fact that there was hardly any activity in the house appeared "somewhat strange".

128- As for the presence of OBL in the house, Major Aziz was confused as to whether OBL would have chosen such a place to live in. He mentioned the high water level which prevented the construction of an escape tunnel. He also mentioned that any family would need at least a set

of twenty or so basic services such as a cook, driver, barber, carpenter etc etc. But apparently, the large family of OBL did not require any services for over five years. This he found hard to believe. Major Aziz said that after the incident, he had questioned the local service providers (was he authorized to do so or doing it as a matter of personal curiosity?). He had spoken to electrician and plumbers etc, but no one admitted that they had provided any services to OBL Compound. This, according to Major Aziz was "unimaginable". He also expressed amazement at how 15-16 children of different ages could be confined and controlled for over five years when even 2-3 children are almost impossible to control and keep quiet.

129- As a result of all of these questions, Major Aziz said that he and his son regularly discussed the question whether OBL could have really been residing in the compound for so long.

130- With regard to whether or not the CIA hired a house in the vicinity, possibly under the guise of some American agency such as USAID, Major Aziz said that USAID had hired a house in the area and that "Dr. Shakeel Afridi with a few women also visited the area" in connection with the vaccination campaign. Major Aziz also said, somewhat contradictorily, that "Abbottabad was an ideal place for OBL" as everything was available there. It was according to him was a peaceful place and families of many terrorists lived there which according to Major Aziz ensured it against suicidal attacks since terrorists would not like to harm their own families. Moreover, the bodies of martyred militants, according to Major Aziz "were buried with great honour in Abbottabad".

131- Major Aziz also told the Commission that when he was constructing his own house sometime before the incident of May 2, 2011 he came across three Land Cruisers with tinted glasses. Whether these Land Cruisers were the same as those which were later seen heading

towards Abbottabad on the eve of the incident is not known. But it raises the possibility that these Land Cruisers had been scouting the area before the incident and were present during the operation to provide ground assistance. He also mentioned that the ISI raided the OBL compound when it was under construction and an exchange of fire had also taken place during the raid. The ISI completely denied the statement saying a raid had taken place on a suspected residence of an Al-Qaeda leader approximately 2 kilometers away from the OBL compound.

132- In his statement recorded for the second time on January 9, 2012 Maj. Aziz highlighted his relationship with Lt. Col. (Retd) Saeed Iqbal who visited him on 2-3 occasions and showed interest in purchasing the land belonging to Aziz, which however could not be finalized. Saeed Iqbal had a very costly vehicle (Coach 2002) which was noise-controlled and he was planning to build a house for his wife in Bilal Town. Maj. (Retd) Aziz informed the Commission on this occasion that once Lt. Col. (Retd) Saeed Iqbal went on the roof top of his house and took photographs of his pets but did not know whether photographs of OBL Compound were also taken.

133- The car in the use of Col. Saeed Iqbal was not only noise-controlled but bullet proof as well worth whereof must be 3-4 crore rupees which a retired Colonel cannot afford by any stretch of imagination. He was also having the latest Digital Camera which cannot be for the purpose of taking photographs of pets only. Major Aziz informed the Commission that a son of Lt. Col Saeed IQbal was ADC to former President Pervez Musharaf and currently worked as a private secretary to him.

Commission's Observations

134- There was a gap of more than 30 minutes between the crash, or controlled landing of the unbalanced Black Hawk helicopter, and its deliberate destruction by the departing US raiders. But he saw apparently the helicopters landing, circling and unloading soldiers on to the house, informed his Commanding Officer, Brig. Shuja of what he had witnessed. That would have been almost half an hour before the destruction of the helicopter. This suggested the possibility that if the Brigadier had passed on the information, the QRF and other cantonment security forces might have been able to reach the site earlier and encountered the Navy SEALs before they departed. Both Major Aziz and Constable Nazar Mohammad also claimed they heard gunfire. While Major Aziz was a neighbor and a soldier, Constable Nazar Mohammad was at some distance from the house. These accounts appear inconsistent with the view that the Navy SEALs used silencers which the wives of OBL seem to confirm. Major Aziz also suggested there was a gun battle for some minutes. But this is not the general view. The reliability of Major Aziz's testimony is questionable although he was speaking on oath.

135- Major Aziz's remarks about Lt. Col Saeed Iqbal are potentially significant as they could reveal about CIA network in Pakistan. Lt. Col. Saeed Iqbal according to Major Aziz employed former ISI employees in his security business. Although he appears to be a very suspicious person and may well have played an active role in facilitating the Abbottabad incident, the ISI informed the Commission that neither Major Aziz nor Lt. Col. Saeed Iqbal, despite their suspicious background play any such role. This conclusion is somewhat strange as Saeed Iqbal left Pakistan immediately after the incident and attempted to sell his properties.

Shoaib Athar

136- On the night between 1-2 May, 2011, while he was tweeting on his computer, he heard the sound of a helicopter around 0030-0040 hours. He narrated subsequent events and recorded his tweets as under:-

a- 12:58 hours: Helicopter hovering above Abbottabad at 1am. (is a rare event)

b- 0105 hours: Go away helicopter- before I take out my giant swatter.

c- 0106 hours: There was a loud bang which shook the windows of his house. He went downstairs to check the safety of his wife and son who were in another room.

d- 0109 hours: He twitted about the blast (loud bang).

e- 0215 hours: A friend tweeted "people are saying it was not a technical fault and it was shot down. I heard it circle 3-4 times above, sounded purposeful"

f- 0219 hours: 3 to 4 times is a little less. I have been hearing helicopter since 1235 am may be 10 / 12 times.

137- During the question and answer session, Mr. Shoaib stated that he got the news of Osama's killing through some tweet that had the mention of Obama's speech. His house is couple of miles away from Bilal Town, so he was only "audio witness and not the eye witness to the incident.The officials of the Intelligence Bureau contacted him about a month after the incident had taken place. He told the Commission that no other agency has approached him and that the SHO of a local Police Station contacted him and informed that he had to appear before the Commission at Islamabad. Regarding the sound of the helicopter, he added that it was "noisy".

Commission's Assessment

138- His was one of the most accurate account of events as the computer was recording the timings of his tweets, hence, the most important and verifiable witness of the events of May 2.

Dr. Suleman, Bilal Town resident

139- The Commission has carefully examined the statement of Dr. Mohamad Suleman who was residing near the OBL Compound told the Commission that in his view foreign government agencies were involved as well as foreign NGO's were involved in the May 2, 2011 incident. This appeared to be his personal opinion which he did not back up with any new information or evidence. However, he did say that in 2010 somebody climbed up the pole located near the wall of the OBL Compound and was fired upon. According to him, no investigation was conducted by the security establishment or the Police with regard to this incident. He also said that a school was established in the house of Shamraiz, which was run by some NGO under a National Program for Literacy. He also said he had observed certain "movements at odd hours in the night", and mentioned that in his view Raymond Davis had visited the area. He believed that OBL had arrived in the year 2010 in Abbottabad instead of 2005. The Commission noticed that he produced no evidence of his statements and accordingly no weight could be given to his assertions.

Commission's Observations

140- According to him, an NGO had used or rented the house of Shamrez for some school or educational project. It is possible that the NGO – if the story is correct – was part of a CIA effort to confirm the presence of OBL in the Compound. Shamrez was detained by the ISI after May 2. But they do not seem to suspect him of any involvement. But given the fact that his house was in front of the OBL Compound and from time to time he entered the Compound to plough the land for cultivation of vegetables etc., it is difficult to believe that over six years, he never got to

know that the main house had many more people in it than the two families of Ibrahim and Abrar.

Chapter 9 Local media in Abbottabad

141- Members of the local media met with the Commission on September 30, 2011. They told the Commission that while Abbottabad was a peaceful area, in recent years a large number of outsiders had settled there for various reasons. Militants were rumored to have brought in their families after being displaced by military operations. There was a general reluctance on the part of the local population to acknowledge that OBL had resided among them without their knowing anything about it. No one saw OBL. A number of the local children had played cricket with the children of Ibrahim and Abrar. No one seems to have seen or suspected the presence of the Arab children in the Compound. They were, of course "very quiet" but there were almost a dozen of them. Over the years some indication of their presence should have surfaced.

142- The General Secretary of the Press Club of Abbottabad, however, thought it strange that the Chief Executive of the Cantonment Board approved the site plan of the house including its very high walls. However, violations of regulations were routine and oversight was poor. Low level corruption, as elsewhere throughout the country, was rife and a great "facilitator." It was also known that some "martyred" militants had been brought for burial in the area. The administration had utterly failed to stop the entry of militants. One journalist said, "It was obvious that a house such as the one OBL supposedly lived in could not have been built without the assistance of someone powerful." This suggested there were some who did not see the fort like structure as "nothing out of the ordinary" and accordingly not worth looking into. Despite the fact that the meeting was by invitation, a member of the local intelligence establishments struggled himself into the meeting. He was identified by one of the local journalists and asked to leave.

Chapter 10 Local Police Officials

Constable Nazar Mohammad

143- Constable Nazar Mohammad met the Commission on October 25, 2011. He was among the very first to arrive at the OBL Compound after the sound of the blast had been heard all over Abbottabad. He was on routine patrol duty from 0000 hours (midnight) to 0600 hours. His patrol area was in the bazaar area but because the mobile patrol van which was supposed to patrol Bilal Town had broken down, he was asked to patrol Bilal Town instead. At around 0040 hours Police Control informed him that firing had been heard from the direction of his area of patrol and he should check out the situation and report back. At around 0105 hours like everybody else he

heard the sound of a blast. This would indicate that 25 minutes had elapsed from when he was informed of gunfire to the time of the blast. In that time he had not located or reached the OBL Compound. As the blast came from the direction of Bilal Town he proceeded there and when he reached Thanda Chua which is next to Bilal Town, he saw a gathering of local people. They informed him that a helicopter had crashed which led to the blast.

144- Constable Nazar Muhammad went straight to the OBL Compound where he saw flames of fire and billowing smoke from the site. He informed the closest police station, Nawanshaher, of the situation. Meanwhile, an Army vehicle, carrying officers and personnel, arrived at the scene. The SHO of Nawanshaher Police Station, Inspector Nazir Khan, also arrived and asked Nazar Mohammad to prevent people from approaching the house.

145- Constable Nazar Mohammad said he did not enter the house. Asked why, he said a lot of people had gathered outside and smoke was coming out of the place. The Army, according to the constable, directed the police "to go away." He continued to "remain on duty on the roadside" at a distance of about half a kilometer from the OBL house till 0600 hours.

146- Constable Nazar Mohammad claimed to have heard the sound of a helicopter hovering over the OBL Compound. (This is not consistent with arriving there after the blast, unless what he heard was the sound of the departing helicopters.) Asked whether the local people had gathered outside the Compound before or after the blast Nazar Mohammad said they had come out as a result of the blast. Asked whether anyone thought of going inside to help possibly injured persons, the Constable said no one thought about that. (This, of course, was not a normal crowd or police response to an accident, especially if it was thought lives might still be saved. However,

it may be said the circumstances were not normal and the people may have been too frightened to enter the Compound immediately without being assured that it was safe to do so.)

147- The Commission asked the Constable why he acted like a spectator despite the fact that he was on duty. He said he was waiting for police officers from the police station to arrive. He then said "people were coming in and out of the house." By "people" he may have meant officials and not the public.

Station House Officer

148- The Station House Officer (SHO) met the Commission on September 15, 2011. He explained the Commission that he was responsible for the area in which the Compound was, accordingly, supposed to know what was going on in the immediate neighborhood. He said that although the local police maintained good contacts with the local population, no specific information was ever conveyed to them by the public or other authorities about the house where OBL stayed. Nor was any unusual activity in and around it noticed. All that the locality was aware of was that two brothers lived there with their families and they had not employed a chowkidar or watchman to guard the premises. (It was not the activity around the OBL house that should have been noticed, it was the lack of activity around it that should have aroused local official curiosity).

Commission's Observations

149- At minimum, police or other security/intelligence officials should have noticed a few other things. There were no visitors to the OBL Compound. There were no television cable or telephone lines. No rubbish was collected. There were 18 feet high walls at places and barbed wire. There was a 7 foot screening wall on the top story. This was a security feature, not a purdah

requirement. The children did not go to school. The size of the Compound expanded over time There were no security guards. None of this negligence necessarily implied connivance. But i does suggest gross negligence at the very least. Once again it is easy to blame the SHO and th local police with some justification. But apart from routine instructions to be generally alert they were never instructed or provided guidelines by their principals or by the security anc intelligence agencies to be more conscious about odd buildings that could possibly be hideout for HVTs. There was simply no due diligence.

Regional Criminal Investigation Officer

150- The Regional Criminal Investigation Officer (RCIO) who was posted to Abbottabad afte May 2, had previously worked in the Department of Counter Terrorism (DCT) in Peshawa which covered the Abbottabad region. He met the Commission on September 29, 2011. RCIC said that the DCT never received any information indicating the presence of OBL in Abbottabad The Criminal Investigation Department (CID) at one time according to him used to be a very powerful and effective department but was nowadays working as a "post office." It just receivec and passed on information. Its manpower had been drastically reduced. It had no links o contacts with the ISI or other security agencies, apart from the Special Branch. It did not evei participate in the monthly meetings convened by the DCO. According to him the OBI Compound was "an isolated place which was not frequently visited by the public." It was locatec at a short distance from the local ISI office suggesting the ISI's curiosity should have beei aroused.

151- The former RCIO was assigned to Abbottabad when the US raid occurred. He did not get tc learn of the incident until 4 hours later because he lived in Mansehra outside Abbottabad. He dic

not think there was anything special about the OBL house. The wall of the Compound collapsed during the 2005 earthquake and was rebuilt in 2006. (That, of course, would have been a considerable security hazard for OBL). High walls were relatively common for the homes of Pathan families. The former RCIO said he was "a hundred percent sure" that OBL was not present in the house as he never heard a word that suggested he might be in the area. The fact that Ibrahim never used his phone in Abbottabad and went to Hasan Abdal and other places to make phone calls was, according to him, further reason for not believing OBL was in the house. However, he conceded, the family of OBL might have been in the house. His final argument for the absence of OBL was the fact that the Americans never showed any pictures of his dead body. Since May 2,he made no effort to ascertain whether or not OBL was in the building since the ISI had taken charge of the investigation. According to him, OBL "could have been brought to the house" as part of a CIA plot. The ISI was the lead agency. He spent more than two hours at the Compound after the incident. (But it was not apparent that he had any clear idea of what he was supposed to be doing there).

Commission's Observation

152- Although the CID is an important constituent of the intelligence community it appeared that the RCIO had absolutely no relevant information to provide the Commission with regard to either the presence of OBL or the criminal act that was perpetrated in his area of responsibility on May 2. He visited the crime scene but was unable to explain what he did there or why he even bothered to go there. To be fair to him, however, his unprofessionalism and incompetence were almost certainly, at least in part, an outcome of the degradation of the institution he represented (i.e. the CID). In turn, the degradation of the CID and of so many other critically important state

institutions was the product of a larger governance implosion syndrome (GID). This explains a lot without excusing it.

District Police Officer, Abbottabad

153- The Commission met the District Police Officer (DPO), Abbottabad on September 29, 2011. He said at around 0058 hours he began to receive calls from a number of places about reports of sporadic firing. After asking his control room to determine where the firing was coming from he reached the Compound and found the Station House Officer (SHO) Police already there with a police party from the nearby police station. The civil administration was quickly mobilized and the fire brigade and ambulance were quickly dispatched to the scene of occurrence. The incident was recorded by the police in the daily report and an inquiry under Section 156 (2) of the CRPC was initiated.

154- The DPO was asked if he entered the house on reaching the OBL Compound. He said the first priority was to extinguish the fire, rescue survivors and to call the bomb disposal squad in case other unexploded ordinance was around. Later the house was searched. Representatives of the security agencies were also present. One of the women they found spoke Arabic. He immediately suspected the place to be the hideout of a HVT. Meanwhile people including the media arrived at the premises. The Police kept them away.

155- He was asked whether he carried out the requirements of a normal crime investigation. He said the SHO initiated an investigation but the ISI and the MI told the police that the case pertained to national security and on that basis took away whatever evidence the police had collected. The DPO was again asked why an FIR was not registered and why normal procedures were abandoned. He said the ISI prevented the police from carrying out its normal procedures.

The police wrote to the provincial government about the matter. However, the incident was recorded in the daily diary and an inquiry was started under CRPC.

156- The Commission said there was a difference between an inquiry and an investigation. An inquiry was conducted to find out the truth about a development whereas an investigation was conducted to find out who was responsible for committing a criminal act. This involved the professional collection and recording of evidence and incriminating material. That was why it was right to ask the police why it failed to investigate the crime which had obviously been committed. The DPO said the incident obviously involved national security and a very high level commission had been established. Accordingly, it was considered appropriate to wait for the findings of the Commission. He admitted that under the circumstances, the police was not capable of handling such an incident. (He seemed to confuse the Commission of Inquiry with a police investigation.)

157- The PMA Commandant asked the police to establish an outer cordon around the premises and he acted in accordance with the instructions of the Garrison Commander. He denied reports that local people entered the premises.

Deputy Inspector General (DIG) Police, Hazara Division

158- The Deputy Inspector General (DIG) Police, Hazara Division, also met the Commission on September 14, 2011, and said that on reaching the OBL Compound, the SHO informed him that according to "civilians" there were dead bodies in the building. The DIG, along with the Commissioner, the DPO, the DCO, the SSP/Investigations and the SHO went out of the main gate and re-entered the Compound through another side gate and entered the main house and met the CO 19-FF in a room where two dead bodies, that of a male and a female, were lying on the

floor in a pool of blood. They went to an adjoining small house, the annexe, where they found another dead man lying in a pool of blood. The CPU of a desktop computer had been removed. There were empty shells and magazines on the floor which were collected by the SHO. These were taken away from him by intelligence officials. The DIG and his police officials proceeded to the main building and went upstairs where they saw the body of a young man on the landing of the first floor.

159- The DIG tried to question the survivors but because of language difficulties was not able to gain much information. However, one elderly lady (Khairiyyah) said in broken English the dead body on the stairs was that of Khalid son of Osama bin Laden. She also said "heli come, heli go and take away one or two." Then she said angrily "now you come, when everything over." The suggestion that the US raiders may have taken away someone in addition to OBL has not been supported by any other testimony. But the possibility cannot be entirely discounted either.

160- The Commandant PMA arrived at the premises and asked everybody including the DIG and his police officials to leave. The Commission asked the DIG also why normal investigation procedures were not followed by the police. He made two points in reply. One was the same as the DPO that the police was not allowed to by the security officials and by the Commandant PMA who took charge as the Garrison Commander and the senior most military officer in the area. The other was that "it was a highly sensitive crime." It was not an ordinary murder case. After due consideration, it was decided not to register a case as the issue seemed to involve two countries. It appeared to be an act of war. Later, the President of the Abbottabad Bar Association filed a petition in the court of the Justice of Peace to lodge an FIR. But the petition was later withdrawn for the reasons best known to the petitioner. Whether or not he was "advised" or "persuaded" to do so, and by whom is not known.

161- The Commission asked the DIG whether the CRPC had been amended to allow intelligence agencies to arrest suspects or to register a case against a person suspected of being involved in a crime. The DIG replied in the negative. In that case, he was asked why there was a delay in registering an FIR and initiating an investigation. The DIG repeated what other police officials said, which was that they were not allowed to remain in the house. He acknowledged that criminal investigation was the primary responsibility of the police. Even so, he was of the view particular that this case was beyond the scope of the police considering its extraordinary nature.

162- Regarding the helicopters, the DIG said that there was a time difference of 15 minutes between hearing the muffled sound of the Black Hawk and the much noisier Chinooks.

163- The DIG was asked about District Intelligence Coordination Committee (DICC) meetings and intelligence sharing with Police to which he replied that only matters pertaining to the area were shared in the DICC meetings. The presence of OBL was never discussed with the DCO or Police. The DIG told the Commission that a detailed report was sent by him to the Provincial authorities on the Abbottabad incident of May 2, 2011.

Commission's view regarding the testimonies of District Police Officer and Deputy Inspector General (DIG) Police, Hazara Division

164- They were of the view that whatever the police's formal responsibilities in reality, it simply did not have the ability to discharge them with regard to the May 2 incident. Accordingly, they were "pushed aside" by a more powerful and capable agency to do the job. This was an accurate but pathetic explanation. They should have had the courage to insist on discharging their

responsibilities. If at even senior officer levels there was an easy abdication of responsibility a chaotic situation would eventually ensue as it did.

Chapter 11 Senior KPK Officials

Inspector General Police, KPK

165- The statement of IG Police, KPK was recorded on October 12, 2011. It mainly revolved around the details of the incident and the information received early morning on May 2, 2011 by DIG Police Hazara Division. The IG also furnished a brief written statement.

166- According to the IG, the local administration and Police took a unified stand after deliberating all the pros and cons of registering a case in the aftermath of the incident. It was decided not to do so in the national interest, and wait instead for the outcome and direction of the Commission.

167- The IG outlined his charter of duties under the Police Order 2002, as:

i) Protection of life and liberty of citizens

ii) Ensuring discipline and training of Police Forces

iii) Maintenance of law and order in the Province

iv) Interaction with other security agencies

168- He made it clear that the DIG did not contact him when the Police was asked to leave the crime scene by Commandant PMA/ISI and no telephone contact was maintained with him from the scene of crime. He came to know about the details of incident from watching the news on the television at around 0700 hours, when he asked the DIG to do the same. (The DIG had been to the OBL Compound, but seems not to have informed his boss) The IG did not ask for any report of the incident and only discussed the matter on telephone. However, a report was received later on.

169- The IG was asked whether any report was furnished by Special Branch after the arrest of Umar Patek from Abbottabad. He said "there was nothing to my knowledge". Regarding the presence of militants and acts of militancy in the province, he said certain instructions were issued to all concerned to hold periodic coordination conferences with the Intelligence Agencies. He further explained that a similar coordination conference was also held in Islamabad but nothing about the presence of OBL came to light. (The subject was never brought up according to the DIG.)

170- The IG believed a number of criminals had taken shelter all over the province in the garb of IDPs. A survey was conducted in the province, including in Abbottabad, in order to ascertain the

numbers of foreigners. The OBL Compound did not attract attention as its owners were living there. The IG informed the Commission that more than 200 persons were under surveillance. But the OBL Compound and its residents were not among them. (There seems to have been the assumption that militants would only rent but not buy properties. This would be generally correct. But there could always be exceptions.)

171- The IG was asked whether any report about the incident was sent to the Chief Minister and the Chief Secretary to which he replied that copies of incident reports were sent to them but he did not recall sending any specific report on the incident of May 2. Asked if he gave any special directions in writing to the Police, he replied that he did not remember. He was further asked if the Police in Abbottabad were given any specific directions prior to the incident. He replied that directions were issued a number of times. Moreover, the CID was split up into DCT and Elite Force and their daily reports were sent to the DPOs and RPOs for action, while a mechanism for feedback was also evolved.

Commission's Observations

172- The Commission took note that the IG Police, KPK was unaware of the incident till later in the morning of May 2, 2011. It was amazing that he was not kept informed of developments by his subordinate in Abbottabad. On the contrary, he said he contacted the DIG to advise him to watch the news on television, although the DIG had been to the crime scene. The IG did not indicate whether he had asked the DIG why he had not been kept informed about developments on the ground immediately after the incident.

173- Nor did the IG instruct the security establishment to perform their duties according to the prescribed procedures of law. Instead he appeared to remain a silent spectator. If the local police

was prevented from doing their duty he could have brought the situation to the notice of the Chief Minister with the request to approach the Interior Minister or the DG ISI and DG MI. The IG admitted that under the Police Order 2002 interaction with other security agencies fell within his jurisdictional domain. Nonetheless, no action was taken by the IGP, the Home Secretary, Chief Secretary and Chief Minister of KPK because, according to them, everything was being handled by the ISI.

174- This was a shocking state of affairs. There seems to be the easy assumption that Abbottabad, Mansehra and Haripur were "peaceful areas" although it was well-known that militants and Taliban leaders were arrested from the area as well as other parts of the country. Apart from this grave dereliction of duty during the period before the May 2 raid, no attempt was made to find out more about those who helped OBL or those who helped in the Abbottabad operation, after the incident. This indifference and passive approach to the discharge of duties cannot be expected from a disciplined force like Police, despite all the difficulties it is known to face.

175- The report furnished by the Additional Inspector General of Police (Special Branch), KPK was largely a compilation of news published in the electronic and print media.

176- The IGP, KPK and Additional Inspector General of Police (Special Branch) were certainly inefficient and irresponsible and so was DIG Hazara Division.

177- However, the environment in which they and their institutions functioned was anything but conducive to effective and responsible performance for which their principals as well as the highest officials and politicians were primarily responsible. Even so, these officers had duties and responsibilities to discharge, which they neglected to do.

Home Secretary, Khyber Pakhtunkhwa

178- The Home Secretary of the Khyber Pakhtunkhwa (KPK) government was asked by th Commission whether as a result of the arrest of the Bali Bomber, Umar Patek, in Hazara distric in January 2011 he took any special measures to find out if other terrorists and wanted person were residing in the area. The Home Secretary said he had issued specific instructions to th concerned authorities to conduct a survey of houses rented to outsiders who had come into th district and these instructions were also conveyed to all field functionaries. Periodic meetings were held by Commissioners to ensure the completion of the survey. (It was not clear what the nature and content of the survey were. Moreover, militants were not necessarily outsiders. Many were Pakistanis.)

179- According to him there was a general apprehension about the presence of HVTs in the area but no intelligence agency had reported anything to the Home Secretary about the presence of any specific person, or about the area being a safe haven for terrorists and militants. He believed the current system needed to be reviewed, especially the role of provincial authorities with regard to the apprehension of militants and terrorists needed to be properly defined.

180- The Home Secretary said that the security agencies did not generally share information with the provincial governments. As a result provincial authorities were not able to apprehend HVTs and other wanted terrorists and militants. No information about OBL's possible presence in the area had ever been received from any source. The Special Branch was completely unaware of OBL's presence in the area. The interrogation report of Umar Patek after his arrest was never shared with the provincial authorities. According to him it was not known by the provincial government why Patek came to Abbottabad. There was no information made available to the

Home department to proceed on. Nor was any search mounted to hunt for other HVTs who were suspected of being in the area. The Home department was aware of the possible presence of militants in the Torghar (Kala Dhaka) area. But it had no information about the Abbottabad area.

181- Although it was known that as a result of successive military operations in the surrounding areas many militants had indeed fled and settled in and around Abbottabad, the only action that was taken by the provincial government was to pass on whatever information was provided by the security agencies to the district authorities along with instructions to inform the general public not to provide shelter to such elements. The Home Secretary neither asked the security agencies to share specific information nor had he conveyed the need for it to his superiors. The Home Department did not interact with the security agencies. They interacted only with the Police. Specific information, if available, was likely to be made available on request. (Apparently few if any requests were made.)

182- The Commission asked what actions were taken once he came to know of the May 2 raid in Abbottabad. The Home Secretary said he was at the time in Islamabad as he was required to appear before the Supreme Court. However, on learning of the incident he immediately talked to the provincial IG and asked him to ensure peace and order in Abbottabad. He was informed by the IG that the Abbottabad incident related to the Federal Government and all assistance should be extended to it.

183- The Home Secretary was asked by the Commission on what basis had he accepted that the incident was exclusively the concern of the federal government. In answer he said that when he was in the Supreme Court building in Islamabad he saw the Chief Minister of KPK on TV

addressing the media in which he categorically stated that the Abbottabad incident pertained to the federal government and "it was for them to deal with it."

184- The Home Secretary told the Commission that he neither submitted any written report on the Abbottabad incident to the Chief Secretary nor did he ask the Commissioner of Hazara Division to submit a report on the incident. However, he remained in touch with them on the phone. Asked if he thought that was sufficient, he said the Army had taken charge of the situation. Accordingly, he felt no written report was required to be made by the civilian administration. He gave the same reason for the police not undertaking legal formalities at the scene of the incident.

185- Asked whether he thought the police was subordinate to the army he merely said the police was assigned to take charge of the outer cordon by the army authorities. Accordingly, the police provided all the required assistance to the army. He was asked whether he could cite any legal authority whereby the police was placed under control of the army the Home Secretary said the international borders of Pakistan were violated. The US attack was considered an attack on the sovereignty of the country. Accordingly, he felt the incident fell within the jurisdiction of the federal government and the military.

186- The Commission asked the Home Secretary whether or not it was the responsibility of the local administration and the police to have taken charge of the crime scene and had failed to do so. As a result of which the Army filled the vacuum. The Home Secretary did not agree. He said he had been informed by the Commissioner Hazara Division that the Commandant PMA / Garrison Commander for the Abbottabad Cantonment had asked him to leave the Compound, and maintain an outer cordon. The Commission asked whether he had been brought this to the

notice of the Chief Minister. The Home Secretary said he had not done so in writing. But the Chief Minister was informed on the phone.

Commission's Observations

187- The Home Secretary and the civilian provincial administration were similarly out of the loop despite their clear responsibilities. Their actual role in counter-terrorism was at best marginal, and in the tracking of OBL it was precisely zero. While there can be no excuse for this "acceptance of realities" by senior officials, it has to be noted that they functioned in a very perverse political and administrative environment in which insistence on the correct performance of duty was often rewarded with severe punishment.

Chief Secretary KPK

188- The Chief Secretary, KPK, also said it was never thought that OBL could be in the settled areas of Pakistan. On the contrary, it was thought he might be somewhere in the FATA region. There was no specific hunt for OBL because there was nothing to go on. There were only different stories and news reports concerning him. The Intelligence Bureau (IB) reported to the Federal Government and not the Provincial Government. The Provincial Government had its Special Branch at the district level. But it only had a limited role.

189- After the earthquake of 2005, a large number of national and international non-governmental organizations (NGOs) came to the province. They were involved in rehabilitation and reconstruction work in various projects. There was a mechanism for their registration and

their activities were apparently monitored. After the military operations in Swat, and later the floods in KPK, these NGOs diverted their attention to these areas. They were supervised by the Disaster Management Authorities that were in place. Many well-known organizations - like USAID, JICA (Japan), etc. – worked in different areas and interacted with the concerned line departments of the provincial government. There were senior level meetings to monitor their work. Most of the personnel of these outfits lived in Islamabad but they had their local representatives in KPK. The Chief Secretary acknowledged that some standard operating procedures needed to be put in place to handle such matters in future. He said the CID used to be very effective but since its conversion into the DCT it had lost its effectiveness. The police came under the Inspector General and not under him.

190- The Chief Secretary acknowledged that Abbottabad seemed to be a safe abode for the families of criminals and militants and accordingly required special monitoring. Nevertheless, it was also a peaceful area. It was a city of schools and a hill resort. Most of the people were peaceful and not involved in unlawful activity. Moreover, it was not possible to check and monitor each and every house. However, a campaign was launched under Section 144 and registration of tenants was now made compulsory.

191- The Chief Secretary said the system was functioning despite obvious short-comings. There was a need to improve the quality and effectiveness of governance. This was the dilemma the country faced. There was a need for institutions to follow their terms of reference (TORs).

Commission's Observations

192- The Chief Secretary's testimony showed how the state of affairs in the province needed immediate attention. Some NGOs had been banned but they simply moved to other places and

resumed their activities. Officials of the DCT seemed to work in Abbottabad but lived in Mansehra! As a result, they were not available in emergency situations. This situation should be addressed.

193- The Chief Secretary's testimony seemed to be another instance of recognizing a systemic problem but not accepting any responsibility for it. At the lowest levels of the bureaucracy this attitude may be understandable. But at the senior most levels such resignation in the face of systemic reality should be much less acceptable. The Chief Secretary's comment that "it was never thought OBL could be in the settled areas" was surprising since approximately half of the HVTs were apprehended in such areas. It is true that the Chief Secretary was not responsible for FATA but Hazara was within his jurisdiction.

194- As Head of the Civil Bureaucracy in the province, the Chief Secretary should have been well aware of all the details of the incident. No comprehensive report was prepared for the Chief Minister of KPK or the Federal Government. It was as if the incident had not occurred in the territorial jurisdiction of KPK. The Chief Secretary is responsible for coordination amongst various departments of the provincial government and also duty bound to render advice to the provincial government in all important matters. No advice was ever tendered to the provincial government and neither was the Commissioner Hazara Division asked to send a detailed and comprehensive report on the incident.

195- The Commission cannot endorse the view of Chief Secretary that he had obtained information by means of telephonic calls to various personnel. Given the importance of the matter, he could have asked the Commandant PMA to allow the provincial Police and Civil

Administration to perform their duties. The Chief Secretary however maintained that because the situation was being handled by the ISI, no action was taken, as if this was sufficient justification.

196- The Chief Secretary did not visit the place of occurrence. No written report was prepared. Nothing in writing was sent to the Chief Minister. No official meeting was held on the subject. Even though, rightly or wrongly, the situation was taken over by the ISI, there were certain aspects which should have concerned the civil administration. The activities of NGOs working in KPK were never seriously monitored and there was no provincial mechanism for this purpose. The Chief Secretary was unaware that banned NGOs were functioning in Abbottabad. Apparently no study or investigation of militancy in the Abbottabad area was made on the assumption that it was a peaceful place. It was a peaceful place and it is for that reason it had attracted militants who came because it was also a very conservative place.

197- These matters fell within the jurisdictional domain of KPK. and the Chief Secretary being the head of the bureaucracy should have been more active.

Chief Minister KPK

198- The Chief Minister (CM) Khyber Pakhtunkhwa was informed by the Commission that after having met with several officials of the provincial government, it appeared to the Commission that the government of KPK had not taken the May 2 incident in Abbottabad very seriously. He was asked whether there was any reason for the apparent indifference. The CM explained that he was in Islamabad on the day of the incident and had immediately interacted with the media on the morning of May 2. He had condemned the US raid and also declared the incident an intelligence failure. The CM pointedly noted that the government of KPK never congratulated the US (which was a pointed reference to others in Islamabad who did). He said that on reaching

Peshawar from Islamabad, he asked for a briefing from the Chief Secretary, the IG Police, and the Commissioner of Hazara Division. The Chief Secretary had been instructed to wait for the reaction and decision of the federal government as the matter was of national concern and had international implications. Later the same day he met with the IG Police, the DIG Hazara, and Commissioner Hazara, to discuss the registering of an FIR. Once again it was decided to wait for the federal government's decision as the provincial government did not have enough evidence. The CM said he was also informed that the federal government had decided an Army Inquiry should investigate the matter.

199- The Commission was of the opinion that it was strange that no formal meeting was held under the CM's chairmanship despite the fact that Pakistanis were killed in the operation in a place that was part of his province. The Commission also informed the CM that the alleged advice of the IG Police with regard to registering an FIR was incorrect. He should have sought and obtained advice from the Law Department. It was also noted that the IG Police had not bothered to visit the scene of the crime. The CM said that although no formal meeting was held, informally he had discussed the matter 8 or 9 times with concerned officials. The advice regarding the FIR was not just that of the IG Police but also of the Chief Secretary, and other officials. He had acted upon their collective advice. When asked to confirm that he gave no direction with regard to this grave development nor was any official report of the incident prepared by the provincial government, the CM responded by saying that the incident certainly occurred in his province but, it was considered a national security matter. Accordingly, the provincial government did not believe it could act in isolation. It had to work with the federal government. An FIR could not be registered against President Obama, Secretary of State Hillary Clinton, or US forces as such an action would have had consequences. Accordingly it was

considered appropriate to let the federal government handle the matter in consultation with other relevant stakeholders.

200- Asked whether any action had been taken with regard to an alleged OBL support network, the CM said that had any such information been available, the government would have taken action itself. It would not have waited for the US to undertake an operation. However, disciplinary action had been taken against health officials who were involved prior to the May 2 incident. This had also been done in consultation with MoFA, the federal government, and security agencies.

201- It was pointed out to the CM that the Abbottabad area was known for some time especially after the arrest of Omar Patek to be a place where Jihadi elements and their families resided and / or visited. Accordingly, he was asked if any surveillance of the area had been made, or any other steps taken in the light of this information. The CM said the provincial government had no information regarding the presence of OBL in Abbottabad or indeed in Pakistan. Obtaining such information and acting on it was the collective responsibility of the federal and provincial governments and of the civil and military intelligence agencies. He frankly admitted that the provincial government had no information with regard to OBL. They knew about other groups operating in KPK province and the FATA region, for example, individuals such as Mangal Bagh in Khyber Agency, Tariq Afridi in Darra Adam Khel, Maulvi Fazlullah operating from across the border and Qazi Hussain in Bajaur Agency. Their activities were monitored regularly, and actions were taken against them, even though a price had been paid as a result of their retaliatory attacks. But as far as OBL was concerned, no information was made available to the provincial government by any agency. The Chief Minister said that this may have been due to the fact that the agencies had no information themselves. According to him the provincial and federal

governments were more focused on counterterrorism than on OBL. (wont the search for OBL a counter terrorist effort?) He was asked whether the Daily Situation Reports (DSRs) had ever included any information regarding families or support networks of Jihadi groups and Al-Qaeda operatives in the Abbottabad and Hazara region. He said there were sectarian issues that were reported.But there was no Abbottabad-specific report.

202- The CM noted that a number of developments had taken place in Hazara Division where the demand for a separate province had emerged specially after the renaming of the province from NWFP to KPK. These issues had preoccupied the provincial government and explained why attention was not given to other matters especially when no information was provided. Moreover, the provincial government had no capacity to focus on international terrorism support networks that were operating in the region. It only had the Special Branch while all the other agencies such as the ISI and IB were with the federal government. With these caveats, the CM said he was willing to accept the failure of the KPK government with regard to finding OBL.

203- According to the CM an undeclared Third World War was being fought in KPK and FATA by international actors and the provincial governments were not equipped to meet this challenge. He said the Police in KPK was meant to maintain normal law and order and not to combat terrorism especially on the magnitude that the country was facing against motivated, trained and well-armed terrorists. A number of steps had been taken to address this situation. The Police force had been expanded from 45,000 to 75,000 personnel, and the local community police was built up to strength of 10,000. Salaries and allowances of the Police were increased by 150%. The widows of martyred policemen in counterterrorism operations were given compensation totaling Rs. 3 million, in addition to free education facilities for their children. Previously, more than half of Police personnel did not have automatic weapons and these were now provided with

the assistance of Pakistan Army free of cost and with basic training. An additional post of IG Special Branch with a focus on counterterrorism had been created. The Police were clearly instructed to focus their efforts on terrorism instead of political reporting, and terrorism was made the major focus in Swat, Peshawar, Charsadda and southern districts, but not in Abbottabad. Intelligence agencies were overburdened because of limited capacities and personnel. The CM reiterated his view that the whole episode culminating in the May 2 incident represented a collective failure. Asked whether the incompetence of Police was due to its complete politicization, he conceded there was political interference in general specially regarding postings of Police personnel, but pointed out that DCOs and DPOs were assigned to their posts exclusively on the basis of merit.

204- Regarding the issue of international and other NGOs working in KPK, the CM said there were arrangements to monitor and control their activities. He preferred not to comment on the quality of their work. However, he noted that Pakistan faced crisis after crisis including natural disasters and terrorism, and many NGOs came to the country to provide assistance as the scale of the devastation was beyond the managing capabilities of the federal and provincial governments. Action against NGOs involved in illegal or suspicious activities was taken whenever such information was made available.

205- Regarding the overall political situation, the CM said that had the country adhered to the democratic system without several interruptions, it would have progressed and the weaknesses of today would not have existed on such a scale. But unfortunately the political history of Pakistan did not follow the constitutional path. Frequent military interventions had created a vacuum in the political system which had not yet been filled. In democracies, people elected their representatives, and those who failed to perform were rejected in the next elections. But in

Pakistan, individuals including dictators mattered more than institutions and processes. This resulted in poor governance and adversely affected political society as a whole. There was a widespread perception of injustice and arbitrariness and no country could make progress on such basis. Moreover, after the Soviet invasion of Afghanistan, the military government of the time had created a Frankenstein's Monster in the shape of militant organizations posing as national liberators. It may have been in the national interest at the time to get so deeply involved in Afghan affairs. But the fact was that the country had paid a massive price for its many unwise decisions and it would take a generation or more to deal with the consequences. In fact, the CM said, overcoming the situation would not be possible until all the stakeholders sat together and agreed on a collective program of action. The bitter truth, according to the CM, was that the governments of the past had not displayed a real allegiance to Pakistan. However, he suggested that things were not yet as bad as some people portrayed. If the right measures were adopted. Pakistan would still be able to surmount the challenges it faced today.

206- The CM was asked what steps in his view needed to be taken to ensure that May 2 like incidents do not occur in future. He was asked whether or not he felt that officials and public servants at the highest levels bore a greater share of responsibility than those at the middle and lower levels of bureaucracy. The CM said whoever from top to bottom was responsible should be made to bear responsibility. To who specifically bore a greater or lesser share of responsibility, it would be up to the judgment of the Commission.

207- The CM's attention was drawn to statements made in the US to the effect that the writ of the Pakistan government did not run in certain areas where militant forces had regrouped and crossed into Afghanistan border to inflict casualties on US and Afghan forces, and that such forces should be held responsible for the violation of Pakistan's sovereignty, rather than the US.

The CM noted that the writ of the government needed to be established throughout Pakistan.But this could not be done by the government alone. A number of issues including cross-border movement required all stakeholders to cooperate with each other. The issue of establishing the writ of the government could be solved without compromising the national interest, even though the presence of the US in Afghanistan was a complicating factor. The Chief Minister concluded by saying that NATO and ISAF forces tended to vacate their positions on the border whenever the Pakistan Army launched operations in South Waziristan, enabling militants to escape into Afghanistan and regroup there. It was not clear why they failed to cooperate with Pakistan in apprehending such elements. Previously, after 9/11, there were several successful joint counterterrorist operations in which a number of HVTS were apprehended. Unfortunately the US subsequently decided to operate unilaterally, culminating in the unilateral raid on OBL in Abbottabad. The US refers to a trust deficit as an explanation. But this did not prevent joint operations in the past. It seemed that as far as the OBL raid was concerned, the US wanted the credit exclusively for itself and the humiliation and embarrassment exclusively for Pakistan.

Chapter 12 Dr. Shakeel Afridi and SAVE the Children

Dr. Shakeel Khan Afridi

208- The Commission met Dr. Shakeel Afridi on October 4, 2011. A written statement duly signed by him was also provided. He made it clear that he had signed no other statement.

209- Dr. Shakeel Khan Afridi, who was the District Health Officer (DHO), Khyber Agency at the time of the US raid on the OBL Compound in Abbottabad on May 2, 2011, said he was appointed to his present job in 2005. The post was also known as Agency Surgeon. Simultaneously, he had established his own hospital in Khyber Agency and was "leading a happy life with his family." In March 2008, he attended a training program at Hayat Shaheed Medical Complex in Peshawar. On returning home from the training program he was kidnapped

by persons belonging to the notorious Mangalbagh Group. They demanded Rs. 1.5 million for his release and threatened to kill him if the ransom was not paid. He was kept at a place on the Main Road in Khyber Agency, which was a mere four kilometers away from the Political Agent's office. The Frontier Constabulary fort was also in the vicinity. Everyone was aware of his kidnapping and where he was being held, according to Afridi, but no one did anything to help him despite his being a government servant.

210- Many of his family had served in the armed forces, especially the Air Force. They had to make desperate efforts to raise the ransom. They were only able to raise a million rupees which was paid and resulted in his release. He submitted an application to the Corps Commander and sought a meeting. In reply the Corps Commander acknowledged the contents of his letter and informed him that Secretary FATA had been directed to help him out.

211- Subsequently, Afridi said he met the Political Agent of Khyber Agency who informed him that those who sent him to his office were themselves involved in his kidnapping and that accordingly, he was not in a position to help him. Later, the Law Secretary, FATA Secretariat allegedly told him Mangalbagh "was not their man" and, accordingly, he was "totally helpless" in the matter. (The obvious implication was that if Mangalbagh had been "their man" they could have deterred him from kidnapping him, or they could have secured his early release.)

212- According to Afridi, as a result of this experience and his disappointment, as well as the insecure environment of FATA, he decided to leave the country. He left Pakistan in 2009 after getting a visa from the US and went to California with his family. A Pakistani doctor who was a friend of his from Khyber Medical College suggested he apply for political asylum because of the conditions that forced him to leave Pakistan. In order to strengthen his case for political

asylum the friend suggested Afridi state that his kidnapping was done with the connivance of the government of Pakistan. Afridi said he refused to do this. Accordingly, he was not able to avail of the option of asylum.

213- Moreover, he said the American way of life did not suit him and he did not want his daughter brought up in it. Also, given his profession as a doctor he did not find it possible to work at gas stations and restaurants in order to earn a living. He returned to Pakistan in 2009 and resumed his old job as Agency Surgeon in Khyber Agency.

214- Meanwhile, according to Afridi, USAID launched a program with the well known NGO, Save the Children (STC), to vaccinate and inoculate children against various diseases throughout Pakistan, including the FATA region. In the FATA region the District Health Officers were the heads of the program in their Agencies, and they reported to the Director Health Services, FATA.

215- He said that the management of STC consisted of Americans but the coordinators and the staff were locals. The programme was for all of Pakistan, including FATA.

216- Dr. Afridi informed the Commission that the STC programme had various components, including training, vaccination etc. The programme in FATA was mismanaged and funds provided for projects were misused and wasted.

217- A training seminar for Coordinators and Agency Surgeons of FATA was arranged by Save the Children in Peshawar in late November or early December, 2009. During the seminar, Afridi said met the head of Save the Children, an Australian named Mr. Michael McGrath. McGrath asked Afridi whether he was the person who had been kidnapped and held for ransom. He said he wanted to launch a Save the Children Program in Bara and asked for Afridi's advice. He

suggested to Afridi they meet in Islamabad to discuss the matter in greater detail. Later he met Afridi in Islamabad picking him up from a bookshop (Saeed Book Bank) and took him first to his office and later to his residence.

218- McGrath appeared very concerned that no more than 5 percent of the funds were being used properly. The rest was ocketed by various people. He asked for Afridi's assistance and offered to pay him for his efforts. He also wanted to know why Mangalbagh opposed the STC program. He wanted to know who funded Mangalbagh and who were in his Shura. He said Save the Children would request the Government of Pakistan to clear the area of extremists opposed to the program.

219- After a few meetings in Islamabad, Afridi said he was introduced by McGrath to an American woman he called "Kate". Afridi assumed responsibility for various components of the Save the Children Program including hepatitis which was on the rise in FATA. A vaccination program was launched in FATA which was very successful.

220- Afridi said Mangalbagh was both a personal enemy as well an enemy of the people. He had killed a lot of innocent people in FATA. Accordingly, he gave names of his supporters, financiers and members of his Shura to McGrath who said he suspected them of belonging to a drug mafia. During the whole of 2010 he regularly met "Kate." Their meetings took place at a USAID warehouse the location of which Afridi did not know because he claimed he was always taken there in a vehicle with tinted glass windows. (Afridi told others he was taken in the boot of the car so as not to be seen. Moreover, tinted glass usually prevents people looking in, not looking out.)

221- In January 2011, Afridi was requested by the so-called "Kate" to launch a vaccination campaign in Muzzafarabad, Bagh, Abbottabad and other places similar to the one that was successfully carried out in Khyber Agency. He told Kate he had no experience of working in Azad Kashmir. But he agreed to help in Abbottabad on a voluntary basis. Kate did not specify any area for him to work in Abbottabad and according to him it was his own decision to extend the program in Abbottabad to Nawan Sheher because most of its inhabitants were poor.

222- As for officially serving in one area – Khyber Agency – and agreeing to work for a foreign NGO in another area, Afridi said there was nothing unusual or suspicious about it as Kate did not insist on the campaign being conducted in any specific locality. There was also no secrecy. There were banners and posters which were publicly displayed. The Lady Health Workers (LHW) came from the area and the program was female oriented as only women and children were to be vaccinated.

223- The funds for the campaign in Nawan Sheher were not received through the FATA Secretariat, which was Afridi's department. The Coordinators of the program only interacted with Afridi. The funds were deposited in his personal account as his department "was not involved." He was asked by the Commission if he considered this modality of direct personal payment to be appropriate. He was also asked why he did not inform the government of his activities since it involved the use of donor funds. Afridi admitted to the Commission that he was paid around Rs. 1.3 million.

224- As regards the actual procedure for the program, cards were given to the women who were vaccinated. The vaccines were to be administered in three doses. The LHWs would indicate on the cards when the second dose was due and the ladies would be required to produce the cards

before receiving the second dose. Afridi came to Abbottabad on 19 March, 2011 to collect the lists of vaccinated women as well as the empty vaccine vials to account for their use. The second campaign was scheduled for April 13. On April 17, Afridi received a call from another American woman, a so-called "Sue" whom he had met through McGrath.She asked him to extend the program to the whole of Nawan Sheher, especially the Pashtun area which he should monitor personally. There were three Pashtun localities (mohallas) in Nawan Sheher.

225- On 19 and 20 April the campaign was launched in the Pashtun areas of Nawan Sheher. When he approached the last house, the local lady supervisor informed him the residents were from Peshawar and no one, except Afridi, would be allowed inside because "they had a feud." (The OBL Compound was locally known as "Waziristan Kothi" and the brother was Swati's so it is odd that a local woman said the residents were from Peshawar) On Afridi's suggestion the LHWs skipped the house. However, the lady supervisor rang the doorbell but received no answer. She then called on her phone but was told the residents were not at home. It was not clear whom she spoke to or from where she got Ibrahim's or Abrar's phone number.

226- Afridi said after completing the vaccination program he informed the so-called Kate, Sue and Sarah accordingly. They visited the area frequently along with "their people" to check on the program. All key positions in the Save the Children program, according to Afridi, were filled by "their own people." Pakistanis performed operations in the field while the Americans did the finance and planning work. The whole campaign was completed on April 23, 2011. The cost of the campaign, according to Afridi, was Rs. 5.4 million. This was the cost of the three doses of the vaccine for the women and children.

227- The US raid took place nine days later. A further three weeks later, on May 23, 2011, Dr. Afridi was arrested. He was first kept in Peshawar for five days and then in Abbottabad for three days. After that he was shifted to Islamabad and kept in solitary confinement for seven days. Those seven days were, according to him, "the worst days of my life." He was shifted back to Peshawar where he remained in the custody of the ISI for 35 days, during which time he was interrogated. He was not presented before any magistrate and no case was registered against him.

228- Afridi told the Commission had he been guilty he would have disappeared immediately after or before the raid. He went to Abbottabad because he was a professional and helping people was his obligation. Apparently Afridi found nothing strange about the circumstances of his meetings with several Americans, the changing venues of secret meetings, the questions about Mangalbagh including his handlers' knowledge of his bad experience with him, and the modalities for the vaccine operation and payment of money. He said it never occurred to him that he was being involved in some US intelligence scheme which as a citizen and as a government official he had an obligation to bring to the attention of his superiors and / or the government.

229- Every coordinator had a satellite radio, according to Afridi, and he was given one too. He denied being given any other equipment to identify the location of the Compound. He admitted that his satellite radio was switched on (He was obviously instructed to switch it on), while he stood outside the OBL Compound but did not know if the satellite radio was capable of conveying the location of the house. Nor did he know the Americans were so keen to secure his release, and that he was seen as a "hero" by them.

230- He admitted that FATA Secretariat had no role in the STC programme and that STC interacted directly with him. He also said that the cheques he received were deposited in his

personal accounts because his Department was not involved. He said that the campaign was not brought to the knowledge of the Government as it was not a secret programme. The money was received in cash. (A cheque would leave a paper trail.)

231- The ISI interrogation of Dr. Shakeel Afridi, as related to the Commission by the Secretary of Defence, resulted in a finding that while serving as Agency Surgeon Khyber he was recruited by the CIA under the cover of USAID in 2008. In January, 2011, he was assigned by the CIA to conduct a Hepatitis-B vaccination campaign for females in Abbottabad's rural areas. In April the program was extended to Bilal Town. He was instructed to give special emphasis on Pathan Gali where the OBL Compound was located. A radio set was provided him by his CIA handlers. Although he could not get into the OBL house he did establish telephonic contact with Ibrahim. He was thus probably able to provide actionable intelligence (including "voice prints") to the CIA. He met with the CIA operatives on more than 25 occasions and received approximately Rs. 10 million from them. The Secretary of Defence also said Dr. Afridi had been cultivated by the CIA and ultimately used in its project to assassinate OBL.

232- Afridi said when he was in ISI custody in Peshawar, a Misri Khan, who was the Naib Ameer (deputy head) of the Lashkar-e-Islam, was also in custody. He had been a member of the Shura of Mangalbagh. While Misri's hands were free, Afridi's hands were cuffed round the clock. Misri Khan asked him why he was being treated so harshly. Afridi told Misri Khan it was because of him. Misri laughed and said the people who had him in custody were the same who were responsible for his kidnapping. (The significance, or intent, of this account was not clear.)

Commission's Observations

233- The statement by the US Defence Secretary, Leon Panetta, who was the CIA Director when May 2 happened, confirming the role of Dr. Afridi in making the US assassination mission a success, rendered much of what Afridi told the Commission very questionable if not outright lies. Nevertheless, it is possible as he said that he did not know anything about the special operations mission and its intended target. Such information would not be shared even with the CIA handlers of Afridi. He may well have suspected the truth. However, the fact is that he was arrested 3 weeks after the raid during which time the CIA could have ferreted him out of the country. Only a fair trial based on due process can establish the extent and nature of his involvement. While he should stand trial, convicting him on trumped up charges by a government sponsored tribal Jirga was not a proper course as it completely undermined the credibility of the country and its judicial process. It was a travesty which allowed critics to argue the government had no real case against Afridi. The Commission on the contrary finally believes Afridi in fact has a case to answer.

Executive District Officer (EDO) Heath, Abbottabad

234- The EDO Health stated that came to know about the incident while undergoing a course on Provincial Health Services Academy, Peshawar, when Ms. Amna Bibi, Lady Health Worker (LHW) contacted the office and informed that she had been investigated by some agencies. He said in March, 2011, Dr. Shakeel Afridi contacted Amna Bibi through a Ms. Shaheena, Assistant District Coordinator, National Programme for Family Planning & Primary Health Care (FP&PHC) for some vaccination/screening activity in the area of Nawanshehr. Ms. Shaheena was directed by Dr. Ihsanullah Turabi, Provincial Coordinator, National Programme for FP&PHC, to cooperate with Dr. Shakeel Afridi. Later she worked with Afridi in Bilal Town after Nawanshehr. A team of nine LHWs was hired and paid for by Dr. Shakeel Afridi.

235- The EDO said that the requisite permission for the vaccination campaign was neither sought by Dr. Shakeel Afridi nor granted. Those involved in the activities arranged by Dr. Afridi never informed any responsible officer of the District Health Office, before, during or after the campaign. Dr. Shakeel Afridi was allowed to carry out the vaccination campaign by Dr. Ihsanullah Turabi, (As mentioned, the DCO, knew about the vaccination program without realizing it had any connection with the CIA project. The ISI apparently knew nothing about the vaccination program.)

236- According to the EDO, the areas where the vaccination campaign focused its efforts were identified by Mst. Asmat Khattak, a social worker who was an associate of Afridi. (Afridi mentioned the three CIA lady operatives on instructing where to concentrate his efforts. Were they also in touch with Ms. Khattak.)

Provincial Coordinator, National Programme for Family Planning and Primary Health Care

237- The statement of Dr. Ihsan Ullah Turabi, Provincial Coordinator, National Programme for Family Planning and Primary Health Care, Government of KPK was recorded on 9th January, 2012.

238- He submitted that he remained under detention for a few days by "some secret agency" (the ISI) and during this period they asked questions about his family, relatives, education and assets. He was further asked about his working with any international organization to which he replied that in his official capacity he dealt with a number of international organizations like UNICEF and WHO.

239- Regarding his relationship with Dr. Shakeel Afridi and the Free Medical Camp/Polio Campaign arranged by him in Abbottabad, he said that Dr. Afridi was known to him as a doctor who told him that he was doing his post-graduation on the prevalence of Hepatitis B and C in Lady Health Workersin Abbottabad and needed the approval of the Government for arranging a Free Medical Camp for this purpose. He asked Dr. Afridi to provide documentary evidence for his thesis but to no avail. However after two days Afridi contacted him again on telephone and requested for permission again. Mr. Turabi said he made a telephone call to EDO (Health) Abbottabad but could not contact him as he was undergoing some training in Peshawar. The Deputy EDO (Health) was also not available and accordingly he contacted Ms. Shaheena, Assistant District Coordinator and directed her to facilitate Dr. Shakeel Afridi after completion of all the formalities. Whatever was subsequently done by Dr. Shakeel Afridi was not within his knowledge.

240- Turabi further said an informal inquiry was conducted and Dr. Sohail Altaf, Secretary, Health, KPK was asked for permission to initiate disciplinary action against the LHWs. But those who "kidnapped him" also directed not to take action against Ms. Shaheena and others. He said he had acted in good faith and if something had gone wrong he was prepared to face any punishment as may be deemed fit. He also pointed out certain precautionary measures which have been taken after the Abbottabad operation. All the MOUs with NGO's had been cancelled. A Committee and Scrutiny Cell has been set-up for this purpose and now MOUs are signed with the approval of the Provincial Governments.

241- He also expressed his opinion about Save the Children, noting that its reputation and intentions were not good as it was working for the Americans. He said that he had refused the job of Coordinator with a salary package of US$2000. He said that STC was working in many

districts of KPK, and Batagram was fully under its control. Besides that it has set up BHUs in Batagram and recently sought permission to work in five more districts such as Tank, Lower Dir, and Kohistan etc. He also stated that even the Health Department was hesitant to take any action against the STC.

242- Dr. Turabi also admitted that Dr. Shakeel Afridi acted beyond the scope of work authorized by him. He remained in Abbottabd for 2-3 days and developed links through gifts and payments of extra money to extend the scope of his work.

Ms. Amna, Lady Health Worker

243- The statement of Ms. Amna, Lady Health Worker was recorded on September 15, 2011. She said that on April 17, 2011 Dr. Shaheena rang her up and directed her to go to Nawan Shehr on April 20, 2011 to administer the vaccines. She was told that LHWs Mumtaz Bibi and Naseem Bibi would also accompany her.

244- She stated that on 21st April, 2011, Dr. Shakeel Afridi took them to Bilal Town and constituted two teams. The team led by Dr. Shakeel comprising Mukhtiar Bibi, Amna Bibi and Naseem Bibi collected blood samples from each house. Ms. Amna, however, made it clear that on that day the house of Ibrahim and Abrar was closed and residents of the house were not present. Dr. Shakeel contacted Mr. Ibrahimon telephone and informed him that they wanted to administer vaccines to which he replied that they the families were away from home. She further

stated that thereafter she fell sick because of severe pain in her leg and could not accompany them.

245- After learning about the US operation she tried to contact Dr. Shakeel but there was no response. She admitted that she had administered polio vaccines in the OBL Compound in the past as well. She further stated that Ibrahim and Abrar were residing there along with their families and that in the aftermath of the earthquake of 2005 she administered polio vaccines to ten children of the OBL Compound. (In 2011, the two families had seven children. So who were the other three?)

246- Ms. Amna said she did not know, Dr. Shakeel Afridi. However, Ms. Shaheena told her on 17th April, 2011 that Dr. Shakeel would meet her and she was required to administer vaccines under his supervision in the area along with other Lady Health Workers. She said that during the vaccination campaign Dr. Afridi insisted that the OBL Compound not be left out, and that blood samples also be obtained of the ladies residing there. She admitted that the needful was done and she administered vaccines in the house. (If she administered vaccines to ten children in 2005 she must have realized the number of children in 2011 was much less. Also other reports indicate the LHWs were not able to administer any vaccines in 2011.)

Ms. Mukhtiar (Bakhto), LHW

247- The statement of Ms. Mukhtiar (Bakhto), Lady Health Worker, was recorded on 15th September, 2011. She said that on 15th March, 2011 at about 0800 hours, Lady Health Supervisor asked her to make a telephone call to Gulfraz Sultan, Health Worker, and inform her regarding a meeting on 16th March, 2011 in a BHU. She attended the meeting, in which was also participated by Dr. Shaheena (LHS) and Dr. Shakeel Afridi also participated.

248- Dr. Shakeel told her to visit every house and inject HB injections to ladies again within the age limit of 15-45 years by entering their numbers in the register. She said that she complied with the said order and the exercise was completed from 13-18 April, 2011. Dr. Shakeel paid them Rs.450 per day.

249- Ms. Mukhtiar said that on 21 April 2011, Dr. Afridi deputed her along with Amna Bibi and Naseem Bibi to carry out the vaccination in the street of the OBL Compound. She said that after the vaccination, Dr. Shakeel gave her a bag which she left in the house of Mr. Shamraiz. On the same day, Dr. Shakeel returned to Peshawar.

250- On 21st April, 2011, Dr. Shakeel Afridi rang Mr. Ibrahim on his mobile phone and informed him that high quality vaccines for women have been received and his family should get vaccinated. There had been no response from the OBL Compound but according to Ms. Mukhtiar, Dr. Afridi did not get any response to his request.

Country Director, Save the Children Pakistan

251- Mr. David Thomas Wright, the current head of Save the Children in Pakistan said that STC was "outraged by this misuse of our name, the false association (of the May 2 incident) to Save the Children's life-saving work and indeed outraged that a life-saving activity such as a vaccination campaign would be used for non-medical or non-humanitarian purposes." He categorically denied that Dr. Afridi ever worked for STC and insisted that his alleged activities were in no way connected with it.

252- According to the statement of Mr. Wright, Afridi was assistant DHO in Khyber when STC had an Improved Child Health Project in FATA. The project was limited to the agencies of Bajaur, Mohmand, and South Waziristan only. STC organized several trainings for health

workers and managers and Afridi was nominated by the FATA Health Directorate for some of the trainings. One was a training course on Health Planning and Budgeting in 2010 when he was Agency Surgeon Khyber. He was one of 50,000 health workers trained by STC. On two occasions Afridi applied for job vacancies in STC but was unsuccessful.

253- Mr. Wright told the Commission that STC was an organization of world renown that had been working in Pakistan since 1979 and now worked in over half the districts of the country. STC followed the Code of Conduct of the International Committee of the Red Cross (ICRC) in all its operations and was a fervent defendant of the principles of impartiality, neutrality and independence to which every staff member had to commit.

254- STC never had a health or vaccination program in Abbottabad. It started its program in Pakistan in 1979 with the approval of the government when the Afghan refugees came to Pakistan, and was answerable to the government for its work in Pakistan. They applied for visas as volunteers to assess the needs of a country with which MOUs were then signed. In the case of Pakistan the MOU was signed with the EAD and it was a binding agreement. No objection for hiring people from the open market was required from the government.

255- STC did not launch any vaccination programs as it did not fall in its area of activities. Nor did it extend financial assistance to individuals. No satellite phone was ever provided to Dr. Shakeel Afridi.

256- Mr. Wright was asked about an STC worker who had been expelled from Pakistan and subsequently re-entered Pakistan under a different name. Mr. Wright admitted that had happened and observed there were some grey areas which needed to be plugged. He had met his predecessor McGrath in Singapore after the US raid on Abbottabad. McGrath remembered

Afridi in Peshawar but "categorically denied inviting him to Islamabad. Nor had he any dealings with him."

257- When informed about Dr. Shakeel Afridi's admission that he had visited the STC office located on Parveen Shakir Road in Islamabad on various occasions, Mr. Wright replied he was not aware of this.

258- Mr. Wright denied that STC extended financial assistance to individuals. He also said that while the NGO had 10 satellite phones that were assigned to the staff of STC, no such telephone was provided to Dr. Shakeel Afridi.

259- Approximately 45 to 60 expatriates had at one time or another worked for STC in Pakistan. Currently there were only 5 expatriates working for STC and all of them were based in Islamabad. STC did not have a screening system for recruiting expatriates. Earlier, they were able to collect their transit visas at the airport but the rules were stricter now due to security reasons. He was asked whether he could confidently state that the CIA had at no time infiltrated the STC. Wright said it would be difficult to be definite, but he thought it unlikely. Decisions were in any case taken at a much higher level than his. Moreover, the Government of Pakistan had not made any statement or taken any action in response to stories that Afridi was associated with STC. (The clear implication was that the government knew Afridi was not associated with the STC.)

Commission's Observation

260- The Commission has observed that the prevailing system for registration of NGOs is fraught with anomalies, loopholes and defects which need immediate attention. Mr. Wright's statement suggested there was no concrete mechanism for the registration of NGOs and any

NGO could start its work without obtaining approval. Such NGOs must be checked by the security establishment and visas should not be issued as routine unless the credentials of the members of the NGOs are checked strictly.

261- The MOU executed between Economic Affairs Division and STC cannot be termed as a binding agreement but even such MOUs must be vetted through the Law Division. Views of the security establishment must be obtained prior to the execution of such MOUs. NGOs working in Pakistan were recruiting personnel in accordance with their own will. This should not be permitted and No Objection Certificates must be obtained from the security establishment with prior information regarding such appointments. There must be some methodology to verify the references for appointments and for the verification of the credentials of the candidates.

262- It was noteworthy, that a Mr. Bruce who was expelled from Pakistan and declared "Persona-Non-Grata" subsequently returned to Pakistan with no questions asked. This could not have been possible without active connivance or criminal negligence and irresponsibility of the FIA and Immigration Department.

Chapter 13 Chairman National Database and Registration Authority (NADRA)

263- The chairman said a manually prepared NIC was recovered from the crime site of May 2, 2011 in Abbottabad which was subjected to the NADRA Verification Services System (VeriSys) and found to be invalid. No NIC had been issued against the number on the card. No entry of the number had been made in the 1998 Census database and neither in the 2002 and 2007 electoral rolls. No verification request was ever made by any private or public organization regarding the number on the card. Nor had any bank ever verified the number. The NIC was, of course, the one used by Abrar in the purchase of the land for the building of the OBL Compound. With the CNICs the matching of photographs and fingerprints had minimized forgeries.

264- Many Afghans and other foreign nationals, however, were able to obtain CNICs. This was a big problem and the main reason for it was corruption. NADRA was making every effort to control this "menace." Training was the "weak area of NADRA" and a training academy had been established which should help address this weakness.

265- If appropriate data were supplied it would be possible to ascertain whether or not Abrar alias Arshad had been facilitated in being able to complete all the formalities for purchasing the property on the basis of a forged NIC. The OBL Compound had the tag number of the house enumeration that was carried out by the government.

Commission's Observation

266- Despite the extensive mandate of the FIA it appeared to act like a silent spectator. Nor did the FIA concern itself with the CIA sponsored vaccination campaign of Dr. Shakeel Afridi - it had not carried out any background check on Dr Afridi. Registration of foreigners was still with the Special Branch and not the FIA.

Chapter 14 Aviation and Explosives Experts

Brigadier Khalil Dar, Army Aviation Officer

267- According to Brig. Khalil Dar, at 0230 hours on the night of the incident, he was instructed by his Chief of Staff to visit Abbottabad by road to determine the type of helicopter that had crash landed. He reached the site at 0530 hours accompanied by PMA staff.

268- According to the Army Aviation findings most of the area around the crash site was littered with "fiber glass honeycomb sandwich" parts which gave the helicopters their stealth or low radar signature characteristics. Most of the wreckage was completely burnt. However, the tail rotor section was partially intact and lay outside the boundary wall. The tail rotor blades were not damaged. The tail rotor shaft drive was extended over the wall. While the power train was identical to a Black Hawk, a new kind of tail rotor section coupled with a honey comb encased

body gave the helicopter a very different aerodynamic shape. It was "a low noise and low radar signature purpose built platform."

269- The intact tail rotor tips and no spread of heavy metal dynamic parts suggested that the helicopter was burnt while on the ground when the rotors were stationary. The spread of the debris and the nearly complete destruction of the instrument panels and communication sets indicated deliberate destruction rather than a genuine crash. The wreckage of the helicopter was removed by midday.

270- Four wheel marks resembling those of a Chinook helicopter were found at a distance on one side of the Compound. On the other side of the Compound wind depressed grass and weeds indicated a low hover of another helicopter. This was a Black Hawk Helicopter.

271- The Brigadier of Army Aviation said that within 30 minutes of the "crash",it was known that it was not a Pakistani helicopter. The 'crash' of course was more a crash landing due to unexpected wind and temperature conditions. The phenomenon is known as "settling with power," (a technical term for forced landing). Nevertheless the pilot succeeded in landing the helicopter safely. The tail of the helicopter was found outside the Compound due to the force of the blast that destroyed the helicopter. He confirmed that it was a specially built helicopter with stealth and sound suppression technology.

272- According to the Brigadier the helicopters came at 0030 hours when the residents of the OBL Compound were asleep. Even when they heard the helicopter, because of the design of its rotors it would not have been easy for anyone to precisely locate the direction from which the noise came. The Chinook arrived after the killing operation was completed and took away the personnel of the downed helicopter. This was unlikely since witnesses (including Major Amir

Aziz) reported hearing and seeing the helicopter before the blast. According to the Brigadier, the people of Abbottabad only heard the noise of the returning helicopters (In fact, they heard the sound of circulating helicopters before the blast.). He was of the view that only three helicopters came to Abbottabad including the two stealth Black Hawks and one Chinook.

Group Captain Faheem Hashmi, Air Commodore. Jehanzeb Masood and Maj. Haroon Ahmed

273- Group Captain Faheem Hashmi inspected the wreckage of the helicopter recovered from the crash site on Sunday the 8th of May, 2011 at Army Aviation Base in Rawalpindi. Based upon the theoretical and practical knowledge of structural and aerodynamic designs of aircraft and helicopters, he was able to clearly establish that the wreckage belonged to a Blackhawk helicopter converted into "Stealth Helicopter".

274- Air Commodore Jehanzeb Masood stated that the wreckage of the helicopter was inspected on 8th May, 2011 with the following conclusions:

a) It had advanced radar absorbing/ reflecting panels over its entire structure.
b) It also had heat and sound signature suppression system.

275- Maj. Ch. Haroon Ahmad stated that he reached the site of helicopter crash at 1600 hours. The wreckage had already been removed. He could only inspect the debris. No discernible signs of explosives were detected. No live explosives were found in the vicinity.

Chapter 15 Visit to Ghazi Base, Tarbela

276- The Base Commander at Tarbela briefed the Commission about the operational and training activities of Ghazi Base. The following questions based on unconfirmed reports were put by the Commission to the Base Commander for his views:

a) Did US helicopters use the Tarbela Base for the Abbottabad Operation on the night of May 2?

b) Was the body of OBL put in cold storage for some time in the Ghazi Base area?

c) Was a piece of land measuring around 1000 kanals allocated to the US in the base area for its operational activities?

d) Were American trainers stationed at the base? How many were they?

e) Did Americans fly flood relief sorties from the base? Did Pakistani pilots accompany them?

f) Why was the Aviation Base established in Ghazi?

g) When was it established?

h) Where were the Americans accommodated?

277- The Base Commander said four US trainers were on the base to train Pakistani pilots. They were asked to leave the area after the Raymond Davis incident. They arrived in March 2009 and returned in August 2010. He said US pilots who flew flood relief operations were always accompanied by Pakistani pilots. No free moment was ever allowed. He denied any land had been allotted to the US. He also denied that OBL's body was kept in cold storage at Ghazi Base.

Chapter 16 , DG Military Operations and DG Joint Staff Headquarters, Rawalpindi

DG Military Operations

278- Director General Military Operations (DGMO) provided the Commission a slide representation of the probable route taken by the US helicopters involved in the raid on Abbottabad on May 1 and 2, 2011.

279- With regard to the actions in response to the US operation in Abbottabad, the DG said that, after ascertaining the immediately available facts, he informed the COAS around 0200 hours. The COAS got in touch with the CAS at 0207 hours and asked him to scramble his aircraft to "shoot down the intruding helicopters". The COAS informed the Prime Minister about the raid around 0300 hours and requested him to contact the US Ambassador for further information about the operation. Around 0310 the COAS called the Foreign Secretary and also suggested that he talk to the US Ambassador. The Foreign Secretary had already been instructed by the Prime Minister to do so. Around 0645 hours the COAS informed the President of Pakistan who is the

Commander in Chief of the Pakistan Armed forces. This was nearly five hours after the COAS first learned of the raid. (The President was not the Chief Executive but he was not the ceremonial head of the state either).

280- Regarding previous US incursions across the border, including attacks on check-posts, the DGMO said they were local in nature and of limited impact even though they were taken very seriously and strongly protested. He said the Pakistan Army had 251 border posts along the KPK/FATA border with Afghanistan. Nevertheless due to the length of the border and the terrain, the border could not be completely sealed. Surveillance was maintained through patrolling, aerial reconnaissance and the help of local tribesmen. There were mechanisms for sharing information with Coalition Forces across the border including regular meetings and telephone contacts.

281- The DGMO said the decision to use US helicopters for flood relief operations in 2010 was taken by the government in view of the devastating situation and the extreme misery of the people. Each helicopter, however, had a safety pilot from Pakistan who ensured against deviations from allocated routes. There was also radar coverage of the relief helicopters. Moreover, this was not the first time US aerial relief assistance was provided. Such assistance was also provided during the relief operations after the devastating earthquake of 2005.

282- Regarding ground support for the raiders near the target site in Abbottabad the DGMO said he had no idea of the nature of the support or those who may have been involved. The DG was asked about the response of the Quick Reaction Force of Abbottabad cantonment which apparently did not react quickly enough to make a difference. The DG said the QRF reacted as promptly as possible "in a vague situation in an area which was not its direct responsibility." It

reached the site within 20 minutes of the blast that was caused by the US destruction of its downed helicopter.

283- The DG also denied that any US authority communicated any prior information about the mission. A technical evaluation report of the execution of the US raid was provided by the DGMO which is appended to the report.

284- Regarding what immediate measures could be taken in case of an air attack on the PMA, the DG said that passive measures could be taken. Active measures would have to be taken by PAF, which was responsible for the security of Pakistan's airspace. He said that permission to shoot down intruders was given by PAF's Air Defence Command.

285- He was asked if there was any clear policy on shooting down an intruding enemy aircraft. If not, how would the Chief of Army Staff be able to give orders to the Air Chief to shoot down the intruding aircraft? He replied that air defence was the responsibility of PAF, which monitored air space through its air defence components. Asked whether Pakistan had no answer to noise suppression and other advanced technologies, the DG said only PAF could pick up air intrusion and provide early warning.

286- He was asked whether according to his knowledge OBL was residing in the Abbottabad Compound for the last several years, and whose responsibility was it to keep the area under proper surveillance. He did not volunteer an answer. As far as responsibility for the recovery of items taken from the OBL Compound he said that the ISI could respond to the question.

287- The DGMO was asked whether the US was ever considered likely to pose a threat to Pakistan. He merely noted, that all possibilities were considered, based on guidelines provided by the Defence Policy and Joint Strategic Directive issued by the JSHQ.

288- The DG identified the reasons for the success of US operation in Abbottabad:

a) Stealth Technology i.e. low radar signatures which minimized the chances of detection deep inside Pakistani territory.

b) Highly developed skills of US pilots in night-time and low level valley flying using Night Vision Goggles.

c) Stand-by cargo helicopter with refueling capability i.e. quick refueling at night at a pre-selected isolated site.

d) Availability of latest three dimensional digital map displays like hyper spectral digital maps. This allowed accurate mission planning of the route and landing site, besides enabling the pilots to fly at higher speeds with minimum stress.

Commission's Observations

289- Instead of accepting May 2 as a security lapse involving the failure of the Armed Forces including PAF, he insisted that instead it was a "betrayal of trust" by a country "allied to Pakistan" against a common enemy. The Commission considered this to be an emotional and inadequate response by a senior officer. Similar responses were made to such questions by other senior officers of the military and intelligence establishment. The DG MO was unable to answer questions of the Commission professionally and satisfactorily.

Director General, Joint Staff Headquarters (JSHQ), Rawalpindi

290- The statement of DG JSHQ was recorded on 18th October, 2011 and he also furnished a written statement. He held the appointment of DG JSHQ since 28th April, 2011 and is Principal Staff Officer to the Chairman JCSC (Joint Chiefs of Staff Committee) for coordination between

various branches of JSHQ and inter-service organizations. He also acts as Secretary in the meetings of the JCSC and chairs all the Standing Sub-Committees of the JCSC. He made it clear that JSHQ does not command the three Armed Services, whose Chiefs are directly responsible to the Government of Pakistan.

291- The DG, JSHQ informed the Commission that Chairman JCSC was on a visit to Australia from May 2 to May 6, 2011 and was not in the country at the time of the Abbottabad Operation. On his return, he held consultations with the Service Chiefs, followed by a meeting of the Defence Committee of the Cabinet on May 12, 2011 to review the situation. Based on these consultations, all possible and necessary measures were initiated.

292- The DG JSHQ made a detailed presentation to the Commission which included a broad perspective of the JSHQ and JCSC. The JSHQ is the highest military body and responsible for integration and coordination between the three Services for ensuring unified planning for war. The DG also explained the charter of duties of Chairman JCSC who is Principal Advisor to the Government on defence matters and is responsible for the preparation of Joint Strategic Directives. He is also responsible to make recommendations on policies having a bearing on war potential and national defence. He also coordinates in the selection and acquisition of major weapon systems and equipments of the three Services for future induction and replacement for final approval by the Government.

293- Giving advice to the Government on defence matters and on the strategy of national defence did fall within the jurisdiction of the JCSC. It was the JSHQ that advised the government on national defence and strategic military matters, evaluated and reviewed joint warfare

doctrines, and provided strategic directions to the Armed Forces. It was also one of the functions of JSHQ to initiate appropriate staff actions on airspace, sea and ground violations.

294- The DG, JSHQ was asked what decisions were taken by the JSHQ with respect to the Abbottabad incident to which he answered that all decisions were taken at the level of Defence Committee of the Cabinet (DCC) by the civil and military hierarchy and no decision was taken at the technical level. However, serious notice of the incident was taken by the top military leadership and it was decided that repetition of such an incident would not be acceptable.

295- The DG admitted that no written advice was issued by the JSHQ to the three Services.He also noted that after the Abbottabad incident frustration is prevailing not only in the civil society but also in the Armed Forces and it is being asked why American helicopters were not detected, encountered and intercepted.

296- The DG JSHQ was asked as to why the US was not considered a threat even though it had repeatedly announced at the highest levels in given circumstances that it would take action unilaterally. He was asked how many directives/advices were issued after such public statements or even private communications from various US officials. The DG could not provide specific answers except that all possible measures were now taken to safeguard against any such offence in the future. The Americans were told diplomatically and in one-on-one meetings that repetition of such an incident would not be tolerated.

Commission's Observations

297- The statement and testimony of DG JSHQ confirmed that prompt action was not taken after May 2, 2011. A meeting of the DCC was held on May 12, 2011 to review the situation. In the Commission's view, such a meeting should have been held much earlier. The JSHQ is the

highest military body for the consideration of the military aspects of national security. The Chairman JCSC is basically the person responsible for the final preparation of the JSD. Both the Defence Policy and the JSD seem to have remained fairly static documents despite tectonic shifts in the strategic and security landscape since 9/11. The very fact that they have not been reviewed since 2004 and 2007 respectively indicates their irrelevance to the current security challenges confronting Pakistan. And yet the Commission was told they represent the "Bible" for the armed services of Pakistan. Possibly, like divine scripture they are not supposed to be changed.

298- The DG JSHQ said that all possible measures had been taken on ground to thwart a repeat of May 2. This was not consistent with the frank admissions of other senior military officers. Moreover, the Salala incident of November 2011 revealed the emptiness and unprofessional nature of such claims. No one in Pakistan is deceived by the optimism of such statements. But confidence in those who make such self satisfying claries' eroded.

Chapter 17 Visits of Commission to ADC

Briefing at the PAF HQ and Air Defence Command Center

299- The Commission visited PAF HQ andAir Defence Command, Chaklala to get a briefing on the functioning and working of the Air Defence Command. The AOC explained the working of the radar system which was the centerpiece of the air defence system. The members of the Commission visited the Operational Room where they were shown the air activity of the night of May1-2. The Base Commander informed the Commission that since the US raid on Abbottabad, Mobile Observation Units had been established on the western border in collaboration with the Pakistan Army. LARs were being augmented and SOPs were updated. As a result the response time in the event of an emergency had been minimized. All the PAF officers who were involved

in the response to the US raid on Abbottabad met with the Commission and gave accounts of their performance.[9]

300- The US may have violated Pakistani airspace twice on May 2, 2011, first during the US mission over Abbottabad and later during the transport of OBL's body allegedly in a US CV-22 (Osprey) to the US aircraft carrier in the Indian Ocean. The PAF explained that the US-led Coalition Forces (CF) in Afghanistan filed their entire flight plans for transiting through Pakistani airspace 24 hours in advance each day. Contrary to some published reports, no Osprey aircraft was scheduled or cleared to fly from Afghanistan towards the sea over Pakistani territory. On May 2, a total of 85 sorties of various types of aircraft flew from Afghanistan towards the sea according to filed flight plans. Given such heavy air traffic of the CF, the body of OBL could have been on any aircraft capable of making a landing on an aircraft carrier. Alternately, the US could have flown the Osprey against a flight plan filed for another aircraft. While the Osprey report was based on an internet story, the first illegal violation of Pakistan's air space is a confirmed reality(i.e. the raid on Abbottabad). This violation appears to have never been formally protested by the Government of Pakistan.

301- With regard to procedures for intercepting an intruding aircraft, the PAF explained that only the Sector Commander or a responsible officer authorized by him at Strategic Operations Command (SOC) was able to declare an identified "track" as an intruder. There were standard procedures for determining whether or not the "track" belonged to a friendly country and if it was on an unfriendly mission. There were different interception procedures for (a) commercial airliners and light civil aircraft, (b) military transport, light aircraft and helicopters, combat aircraft of non-hostile countries, and (c) combat aircraft of hostile countries.

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[9]Statements are attached at Annex G.

302- Hostile aircraft were to be shot down subject to a number of conditions being satisfied. Should there be any doubt about the hostile intention of the intruding air craft, the intercepting pilot was not authorized to shoot it down on his own initiative.

Chapter 18 Salient points of PAF Board of Inquiry

303- According to the Board of Inquiry, on the night of the incident the first time that information reached the PAF was at 0207 hours but by this time the raiders had exited the airspace of Pakistan. (This is not the same as the time calculated by the Commission, according to which the intruding helicopters exited Pakistan's airspace at 0226 hours). Had the PAF been able to detect the presence of US helicopters over Abbottabad, or at any time after their intrusion into Pakistani air space, it would have been possible for PAF fighters to intercept them.

304- According to the Inquiry, at the national level, Pakistan was considered a key ally of the US in the war against terror, and enjoyed the status of a MNNA. At the Armed Forces level, relations between the two countries had always been cordial and there had been active involvement of the Pakistan Army and PAF in operations against terrorism. The US had

acknowledged the PAF's contributions in the anti-terrorist campaign and PAF had received important military hardware and conducted joint exercises with the US Air Force. Neither the GoP nor JSHQ had ever directed the PAF to be mindful of a direct military threat from the US and there was no prior intelligence or information with regard to an impending US raiding operation. As a result, the PAF air defence assets were not deployed in a manner to respond to such a raid. It needed to be understood that peacetime plans were entirely different from wartime deployment plans. The Board also concluded that given the current inventory of radars, a repetition of a similar US raid in future would be difficult for the PAF to handle. The US was the only country in the world to have mastered stealth technology at an operational level, and the PAF did not have radars that could detect the intrusion of stealth objects. The capability of the PAF in terms of advanced hardware needed to be enhanced tremendously in order to respond to any future development such as that occurred on May 2, 2011.

305- The PAF Board of Inquiry concluded that the May 2, 2011 raid on Abbottabad was an outcome of "a combined failure at all levels in assessing the intentions of the USA." There was never any mistrust between the Pakistan and US Armed Forces. As a result, there were no apprehensions regarding US intentions. This situation was exploited by the US to launch its surprise raid.

Commission's Observation

306- The PAF Board of Inquiry report does not assign responsibility for the May 2, 2011 incident to anyone despite it being a "combined failure at all levels." Its assumptions appeared to be based on wishful thinking generated by Pakistan's status as a MNNA, its apparently "cordial relations" with the USAF and the supply of military hardware. The truth was that there was a

significant trust deficit between the two countries, and especially between the two military forces, which appears to have escaped the notice of PAF Board of Inquiry. Given the negative developments in US-Pakistan relations in recent years, there was no basis to limit defence planning to only one front in the east, while ignoring the border and air space in the West. Apart from tensions with the United States, there were also differences with Afghanistan and a developing strategic relationship between Afghanistan and India on the one hand, and the India and the US on the other. All of this should have been taken into consideration instead of leaving the western borders exposed to the increasingly "kinetic" and threatening policies of the US that were directed towards Pakistan. There appears to have been a defeatist element in the Defence Planning of the PAF, especially in its acceptance of the fact that it was "not structured and equipped to fight a two front war". Given the obvious resource and technological limitations, the PAF leadership, particularly the Chief of Air Staff, should have brought these facts to the attention of the Military and political leadership so that a more comprehensive and realistic National Security Policy could have been designed to mitigate and minimize the challenges that Pakistan was increasingly faced with.

Chapter 19 Senior Air Force Officials

Deputy Chief of Air Staff (Ops)

307- The Commission met with the Deputy Chief of the Air Staff (Ops) (DCAS) who began by saying the Abbottabad incident was indeed one of the most embarrassing incidents in the history of Pakistan. It had tarnished the image of the Pakistan Armed Forces, including the PAF, and had adversely impacted on the morale of the people of Pakistan.

308- The DCAS said that in any efficient and effective defence system, the first and foremost requirement was the identification of any threat to the country. There was a whole process for this identification. After the identification of the threat and the enemy, if any, the government

approved the Defence Policy of Pakistan. The last Defence Policy document was issued in 2004 and it was still operational. It clearly identified India as the main military threat to Pakistan. It also placed an emphasis on the maintenance of good relations with the US. It specifically enjoined that "Pakistan must avoid confrontation with the US."

309- The Defence Policy provided the framework and guidance for the formulation of the Joint Strategic Directive (JSD) which was the "Bible for the Armed Forces." It was comprehensive and covered all aspects of the armed services including specific instructions to counter the threat identified by the Defence Policy. The last JSD was issued in 2007 and specifically stated "India has been and will continue to be the main military threat to Pakistan." The DCAS said none of the government departments, civil or military, had ever declared the US or Afghanistan to be a direct threat to Pakistan.

310- The DCAS said the Defence Policy (DP) and the JSD only identified an "indirect threat" from Pakistan's western border in the context of "Extra Regional Forces (ERF)."

311- The PAF was responsible for the aerial defence of the entire airspace of Pakistan. Moreover, the three services were each responsible for the ground defence of their respective Vulnerable Points (VPs) and Vulnerable Areas (VAs), using anti-aircraft artillery (AAA) and surface to air missiles (SAMs).

312- According to the DCAS the PAF first learnt of the Abbottabad raid at about 0207 on May 2 i.e. an hour and a half after it began around 0030 hours when, according to the DCAS, "Pakistan TV channels started showing an Army helicopter crash at Abbottabad." After "completion of the operation in about 40 minutes" the US forces destroyed the crashed helicopter and "the other helicopters began their return at about 0110 hours and exited Pakistan airspace at approximately

0200 hours." Seven minutes later the PAF first learned of the attack when the COAS called the Chief of Air Staff (CAS) and informed him that "one helicopter had crashed near PMA Kakul whereas another was flying in the same area." Actually the raiding helicopters by that time had already exited from Abbottabad except for the one that had crashed and was destroyed. The COAS told the CAS that "some sort of operation was taking place over Abbottabad near PMA Kakul." It was clear the helicopters did not belong to the Army or PAF.

313- The CAS ordered the DCAS to scramble Air Defence Alert (ADA) fighter aircraft with "clear instructions to shoot down any aircraft or helicopter flying over Abbottabad or in the adjoining area." The ADA pilots were soon airborne and proceeded to Abbottabad under positive radar cover. They reached Abbottabad in 14 to 16 minutes approximately after take-off.

314- PAF Air Defence Command was also ordered to scan the area around Abbottabad and the entire airspace of Pakistan for any air activity. The Director General Military Operations (DGMO) was asked to ensure that Army helicopters were not flying in the area in order to avoid accidents in view of the shoot down order.

315- The Star Safire equipped Surveillance C130 was also ordered to get airborne and other necessary measures were also immediately put in motion. The entire air defence process was automated and did not require any special permission or briefing from anybody.

316- But the situation on the night of May 1 / 2 was different. Instead of PAF radars detecting intruding aircraft and initiating the process, it was the phone call from the COAS that initiated the process "without any radar detection, or any prior intelligence information which was a situation that was not covered in any laid down procedures or SOPs." It was a situation that was "fraught with risk" because the PAF pilots had "entered into an area of combat with incomplete

information and no situational awareness at all." This was a serious tactical disadvantage. In sum, the DCAS said none of the HARs, the LARs and PAF aircraft monitored any abnormal activity in Pakistani or Afghan airspace, and certainly not over the incident area.

317- The DCAS said it was "understandable that an ordinary Pakistani citizen was not able to comprehend the situation." But the fact that the US raid deep into Pakistan was not intercepted during its time in Pakistan's air space can be credibly explained. Pakistan was not in a state of war. Military deployments were in a peacetime mode. There was a big difference between peacetime and wartime deployments, particularly with regard to preparedness and response times. The Americans were fully aware of this difference and took full advantage of it. The Americans deliberately planned their approach route to avoid the coverage of radar. Moreover the US raiding pilots used "nap of the earth" low flying and "terrain masking" techniques in a mountainous region where there were numerous valleys thereby avoiding any chance of detection by LARs. The American helicopters were equipped with state of the art technology.

318- According to the DCAS, there was the "possibility of some of their pilots having flown in this area during the 2010 flood relief operations." The Americans had flown extensively in this area for months. American pilots were always accompanied by Pakistani pilots during the flood relief operations but such flights may still have enabled the Americans to obtain terrain information that was later of operational value in the planning of the Abbottabad raid. In addition to the above, the Americans employed stealth helicopters. The US was also supposed to be an ally, and "was never expected to commit such a dastardly act."

319- The DCAS said the PAF was implementing measures to reduce the possibility of a recurrence of such a covert operation in future. The US had also noticed these measures. Caution

was required in order to avoid getting into an uncontrollable situation. The DCAS said this situation was explained during the joint parliamentary session of May 12-13, 2011. The situation was complex and needed to be handled carefully on the basis of an informed consensus.

320- The DCAS said the incident of May 2 was not caused by any security lapse, human error or lack of facilities, equipment and training. No single agency, department or organization could be held responsible. It was a collective failure at the policy level since no one had identified the threat of such an incident. Moreover, he said the three armed services depended on the ISI, which was responsible for the collection of intelligence and information and to submit it to the headquarters of the three services and their intelligence services.

321- The DCAS noted that because no LARs were deployed at the entrance to valleys traversing the border with Afghanistan, the entry of the raiding helicopters was not detected. Apart from this, of course, the Black Hawk helicopters used stealth and noise suppression technology which would have in any case avoided radar and ground detection.

322- Explaining the reason for the peacetime mode of deployment of forces, the DCAS said there was no on-going or imminent conflict with any country as a result of which air raids might have been anticipated.

323- The DCAS said the military of Pakistan was prepared and equipped for fight on a single front. He was asked whether apart from the "main military threat" was any "auxiliary" or "secondary" threat source to Pakistan considered and was Pakistan following a policy of not confronting any U.S. military threat that might develop as was implicit in a one front defense policy. He was asked if he regarded developments in U.S. Pakistan as "positive", as required by the Defence Policy of 2004. If they were not, should the US have at least been considered a

potential threat, if not the main threat to Pakistan? Were any non-military policies considered to minimize this potential threat? The DCAS responded by saying that other than preparing for the main threat and containing "indirect threats", no other threat was considered by the Defence Policy or the Joint Strategic Directive.

324- The Commission noted that after the JSD of 2007 a lot had happened. President Obama had taken over from President Bush and his administration on more than one occasion made clear they saw Pakistan as the theater from where the most important threat to US soldiers and US interests in Afghanistan came. Moreover, Obama had made clear that if necessary, he would not hesitate to take unilateral action. The DCAS was asked whether the possible implications of such statements were ever thoroughly discussed along with countermeasures and threat mitigation measures.

325- The DCAS said because Pakistan was always part of joint efforts with the US against terrorists such a scenario was never considered. The military was aware of Obama's statements. Nevertheless, "the presence of OBL deep down in the settled areas of Pakistan was beyond anybody's imagination" and accordingly, the US President's statements "were never assessed as constituting a possible threat." Since neither the PAF nor any other service could "think of a HVT living deep inside Pakistan or in a military town", the possibility was "never discussed at the Joint Staff or the Services level."

326- The Commission noted that there had been an evolution of the US policy of conducting drone attacks. Previously there was consultation with Pakistan regarding targets. But subsequently the US began to act unilaterally. Was this not an indication of a much more

aggressive policy towards Pakistan? The DCAS said the PAF was never consulted although US drone policy may well have been discussed.

327- The DCAS was asked what constituted a direct threat to Pakistan. Was it only the threat of military invasion, or did it also cover the threat of a military raid on Pakistani territory? If the latter was included in threat perceptions the fact was that on more than one occasion raids had been conducted on Pakistani territory against Pakistani military personnel and civilians from across the western border. In view of this how was the US altogether eliminated as a possible threat to Pakistan?

328- The DCAS said a direct threat was considered to emanate from a country with which there existed a conflict over territory or some other political or resource issue. There was no such conflict with the US even if there were significant policy differences. As regards US military raids, they were largely restricted to counterterrorist drone operations limited to the FATA region. He also clarified that US raids before May 2 were never discussed with the PAF.

329- The Commission referred to the continuous flow of statements, communications, warnings and protests that were privately and publicly communicated through both civilian and military channels, as well as actions by the US military forces in violation of Pakistan's sovereignty, airspace and territorial integrity. There was clearly a situation of diminishing trust and confidence between the two countries, including their military and intelligence agencies. The DCAS said that US warnings and analyses of their possible implications were never discussed in or with the PAF. On a few occasions the political leadership was informed about the possible consequences of a direct conflict with the US, especially in the event of shooting down drones inside Pakistani territory.

330- The Commission noted that the CAS had instructed the DCAS that PAF pilots shoot down any aircraft they encountered over Abbottabad or in Pakistani airspace. These aircraft were airborne after US forces had either already left or were about to leave Pakistani airspace after completing their mission. The Commission asked whether there was any prior communication at any level from the US to ensure against the possibility of a confrontation between US and Pakistani air forces. Would the US aircraft have been engaged despite obvious military asymmetry and the risk of escalation of the conflict which the DCAS had indicated was best avoided? The DCAS said there was never any communication between the two air forces regarding the need to avoid confrontation. The intruding aircraft would have been engaged had they been encountered in Pakistani airspace, especially as it was not known at the time which country they belonged to.

331- The Commission asked the DCAS that in view of the Raymond Davis episode and several cross border incursions by US/NATO forces, shouldn't such a scenario have been considered in contingency planning exercises. The DCAS answered in the negative, saying that covert action of this kind by the US was not considered a possibility by any organization, agency, department or service. He was asked if in view of the fact that a decision to shoot down intruding aircraft was a serious one were there any policy guidelines for responding in such situations. The DCAS said "there was no policy whatsoever by the government for responding in such an event." Currently, PAF pilots must obtain clearance from the CAS in order to shoot down an intruding plane.

332- The DCAS was asked for his opinion on how vulnerable Pakistan was to a repetition of such an occurrence from its western borders despite all the measures that had been put in place after May 2. The DCAS enumerated some of the measures that had been or were being put in

place. But he acknowledged the possibility of such a raid taking place in the future. He referred to the length of the western border and the unfeasibility of installing enough LARs to cover all of it, especially with the current inventory. Pakistan could not beef up radar coverage of its western borders at the expense of inadequately covering its eastern border from where the main threat still emanated. The use of stealth technology also constituted a challenge that would be difficult to counter.

333- Finally, the DCAS said that in retrospect it was possible to call Pakistan's policy flawed. But at the time it was difficult to be wise before the event. The reason was not because of blindly reposing too much trust in US goodwill towards Pakistan. It was due to the fact that no one could imagine OBL was residing in a settled area deep inside Pakistan and that too in a military cantonment area.

Commission's Observation

334- The testimony of the DCAS was in many respects deeply disappointing. It was quite incredible that it took one hour and thirty seven minutes for the PAF to learn of the air raid in Abbottabad from the COAS himself. The DCAS told the Commission that in fact shortly after 0032 hours the PAF learned about the raid from the Pakistani TV channels. The PAF should have immediately realized that PAF and Army helicopters do not usually fly at night and taken all necessary actions. The CAS should have learnt of the developments in Abbottabad from the PAF itself instead of having to be informed an hour later by the COAS.

335- The DCAS claimed that the May 2 incident was not the result of "any security lapse or human error". However, immediately after this statement he acknowledged that the whole incident was the result of "a collective failure at the policy making level since no one had

identified the threat." What could be a more obvious security lapse and human error than this collective failure? Moreover, the DCAS said all three armed services depended on the ISI for intelligence and information although, of course, each of them had their own intelligence organisations. In other words, the ISI failed to provide the correct intelligence and information to armed services regarding any developing or eminent threat. This, needless to say, was another serious lapse and error.

336- The downplaying of explicit warnings from the highest officials in the US Administration; the complete misreading of US military intentions behind actual border raids that it had already conducted across the western border which resulted in civilian and military casualty; and the naïve statement that "the presence of OBL deep down in the settled areas of Pakistan was beyond anybody's imagination"; all testified to an extremely unprofessional and irresponsible approach towards threat identification.

337- The statement of the DCAS that had the PAF intercepted US helicopters it would have engaged them "especially as it was not known at the time which country they belonged to," suggests that had the PAF known that they were USAF aircraft, it might not have challenged them. There were moreover, no policy guidelines approved by the political leadership available for responding in such situations.

Air Chief Marshall Rao Qamar Suleman (former CAS)

338- The Air Chief Marshall informed the Commission that PAF Air Defence Plan was part of the overall Defence Plan of Pakistan, which was formulated to counter the threats envisaged under the Joint Strategic Directive (JSD) issued by the Joint Services Headquarters (JSHQ) as well as the Defence Policy given by the Government of Pakistan. He referred to the information

already given to the Commission by the Deputy Chief of Air Staff (Ops), Commanding AOC Air Defence Command Chaklala, Base Commander Mushaf Air Base Sargodha, Air Defence Controllers, and the pilots of the F-16 aircraft involved in the aftermath of the May 2 incident.

339- With regard to the incident of May 2, the Air Chief Marshall said the Defence Plan was based on certain assumptions and threat perceptions. Pakistan's threat perceptions were determined by relevant military and civilian departments that made assessments about neighbouring/regional countries based on issues and disputes with specific countries at a particular time, and accordingly identified countries as friendly or hostile. The Air Defence Plan was based on the overall defence plan. The Air Chief noted that the PAF, despite being an independent force, was a supporting service for the Army and Navy in their operations.

340- The Air Chief mentioned that making the overall defence policy was not a function of the PAF even though it provided inputs along with the other services. When asked who was responsible for formulating defence policy, the Air Chief said it was the MoD.He said that in other countries defence policies were reviewed every 4-5 years or whenever any developments in their regions necessitated a review. While the armed forces provided their inputs, the MoD should be in a better position to comment on the formulation of Pakistan's defence policy.

341- In response to a question by the Commission as to whether the PAF ever recommended a review of the defence policy of 2004 in the light of subsequent developments, the Air Chief said the issue had been deliberated by the Armed Forces in the JSHQ where the PAF gave its input. Nevertheless he reiterated that this responsibility was basically the domain of the government.He suggested that the Commission's recommendations with regard to the formulation of defence

policy would be important, particularly in terms of periodic reviews. He further said there should be an institutional framework for the review of all national policies, including the defence policy.

342- According to the Air Chief, the current defence policy and JSD did not classify the US or Afghanistan as hostile countries. In fact, the US was classified as a friendly country. Pakistan had received equipment and weapons including F-16 aircraft from the US free of cost. It was the front line ally of the US in the war on terror and both countries were fighting a common enemy. The only major military threat to Pakistan was perceived from the east, i.e. from India, and no agency had ever indicated any threat from the US, Afghanistan or NATO from the western border before May 2. Accordingly, the Abbottabad incident was a surprise and a betrayal. The Air Chief said after the incident he had told the Americans about his sense of betrayal.

343- In response to the Commission's reference to a book written by former Air Chief Marshall Zulfiqar Ali Khan, who had highlighted the threat from the western borders, the Air Chief mentioned that the book was written in 1988 when the Soviet Union was still operating in Afghanistan and was considered an enemy by the government of Pakistan. In those circumstances the point of view expressed by the former Air Chief was valid.

344- With regard to the Abbottabad incident, the Air Chief did not believe that there was a failure on the part of the PAF. However he conceded that the mechanisms for threat identificationand assessment, and for reviewing the defence policy were a weak area and needed to be reviewed.

345- Commenting on public perceptions, the Air Chief Marshall said that people were generally ill informed and did not know much about the hard facts concerning important events. Pakistanis were emotional people and the truth was always different from public perceptions and opinions.

He said it was not the job of PAF or of other armed forces of Pakistan to go to the public of Pakistan on such issues since this was the responsibility of the political leadership.

346- Regarding radars, the Air Chief said that PAF had not deployed low level radars on the western border since no threat was envisaged from that direction. PAF was not in a high state of alert on the night for the same reasons. He informed the Commission that there were only a few radars on the western border. These were installed to facilitate Pakistan's military operations against insurgents. Their deployment was known to the US as it had operated in the area during the floods of 2010. Accordingly they flew their mission well outside the range of the radars, followed nap of the earth flying techniques, and used stealth technology to avoid radar detection. The Air Chief also gave a detailed technical explanation to the Commission regarding how stealth technology worked and reduced radar visibility of the aircraft.

347- The Air Chief also commented on the possibility of manipulating radar data in the aftermath of the May 2 incident, noting whole system was driven by complex software and recordings were done at more than one location and hence the PAF did not have the capability to change or manipulate recorded data. It would require changing the software, which would involve 30-40 people for 6-7 weeks, which would be a major operation that could not be kept secret. Had any data been manipulated, he said it would have been known by PAF personnel and would have caused significant negative reaction. Accordingly, any suggestion that data had been manipulated after the May 2 incident was baseless.

348- Regarding defence capability, the Air Chief noted that Pakistan was facing threats on both its western and eastern borders. A response capability was in place as far as the eastern border was concerned. However, the capability for the western border needed to be developed and this

would require huge recourses. He said more than Rs. 17 billion had been spent in developing one PAF base at Shahbaz, which would be completed in 2013. To develop an adequate defence capability on the western border, more bases and other infrastructure would be required. Additional squadrons would need to be inducted and trained and pilots would be needed, in addition to air men, technicians and other personnel. This would involve time and large scale resources.

349- When asked by the Commission whether nön-military diplomatic options needed to be considered in dealing with the US since developing an adequate military capability might be difficult, the Air Chief noted that while the PAF as such was not concerned with diplomacy or non-military options, these issues had been discussed in various high level meetings. He underlined that the current threat perceptions needed to be reviewed and the Foreign Office and other concerned departments needed to play a greater and more proactive role with regard to threat identification and policies to meet them. He admitted that some of the public statements made by senior American officials, as well as some of the steps they had taken should have been properly analyzed by the concerned government institutions in order to asses and analyze their intentions more accurately. The Air Chief said the PAF was always ready to respond to any identified threat and there were SOPs in place for whenever PAF radars noticed any unusual activity, and a process started automatically as information was also conveyed to the Chief of Air Staff. However, he said there were no SOPs for actions in response to telephone calls. This was an important distinction since in the case of the Abbottabad incident the PAF radars did not notice any unusual activity. The Air Chief received a call at 0207 hours on May 2 by the Chief of the Army Staff. He then passed on instructions to DCAS (Ops) and PAF pilots were dispatched with instructions to shoot down any intruding helicopters.

350- With regard to the aftermath of the incident, the Commission referred to the journalist Mr. Hamid Mir who had informed the Commission that during his meeting with the Air Chief, he was told that the radars on the western borders were at rest. The Air Chief responded that he had called a select group of journalists including Hamid Mir for a background briefing and not a normal briefing on the record. Mr. Mir had misunderstood the briefing because some of the issues were of a technical nature. For instance, when the Chief had referred to "peacetime deployment" Hamdi Mir had translated it as 'haalat-e-sukoon' (condition of tranquility). Accordingly, the PAF had issued a clarification after Hamid Mir's statements.

351- The Air Chief mentioned that the PAF had shown the recording of the radar picture on the night of May 1-2 to the Commission and had put this recording on display to let PAF personnel also be satisfied that no unusual activity was hidden. He said that the Armed Forces had been as embarrassed and humiliated as other citizens of Pakistan as a result of the raid and their personnel needed to be assured that the PAF had done its duty and was not to blame.

352- Regarding whether PAF had ever made any demand to install radars on the western border, the Air Chief said such a demand had not been made since no threat was anticipated from this quarter. With regard to Mobile Observer Units (MOUs), which had been deployed on the western borders previously but were then abandoned, he said that 6 squadrons of MOUs were extensively used during the Afghan war in the 1980s and were later reduced to 4 squadrons and deployed on the eastern border only. He also noted that in the 1980s, the people in the KPK and FATA gave their full support to the MOUs, but unfortunately the situation was different now as the people were hostile to the armed forces there. The MOUs included 4 airmen at each post. Deploying them in the present situation would have meant putting their lives at risk as the

militants had been killing army personnel in the area. He said that however, after the Abbottabad incident MOUs had been attached with army units on the western border as well.

353- As to whether the American helicopters participating in the raid received any guidance from the ground, the Air Chief did not have any information. But he did not think this to be the case. When asked if any Pakistani authority received any communication about the raid in advance, he said this perception was incorrect. There had been no prior information. Otherwise, the reaction of the PAF would have been very different. If the PAF had been involved in facilitating or not hindering the US operation, it would have taken steps to ensure that it was not disrupted. Instructions would have been passed to PAF personnel, of which a significant number would have been involved. He pointed out that this could not have been kept hidden and there would have been a severe reaction from within the Armed Forces. Moreover, if any of the Armed Forces had extended cooperation, the Americans would not have criticized Pakistan afterwards.

354- Regarding the Airborne Early Warning (AEW) aircraft which were inducted into the PAF, the Air Chief said, to be effective, these planes needed to be airborne, but since there was no envisaged threat, keeping them in the air on a 24-hr basis would have meant sacrificing massive financial resources at a time when the Armed Forces were in peacetime mode. That is why they were not airborne on the night of May 2.

355- Regarding the effectiveness of the current system of reaction to air intrusions, the Air Chief said that while the PAF had a mandate to act with regard to intruding aircraft, a clear policy was needed with regard to the western border to avoid any confusion for PAF pilots. Asked if the government would accept responsibility in case an American helicopter was shot down by the PAF, the Air Chief replied that there was no clear policy with regard to the US.However, PAF

pilots had clear instructions to shoot down an intruding enemy aircraft that was seen to be taking hostile action in Pakistani territory. He emphasized that he could not send pilots into a combat area without complete clarity, which he had asked for from the government. Regarding the option of shooting down pilot-less American drones, the Air Chief reiterated that this needed a policy decision by the government of Pakistan.

356- Regarding reports that certain functions of the Air Chief had been transferred to the JSHQ which had an adverse impact on the operational performance of the PAF, he referred to an Air Defence Committee that was headed by the Air Chief since air defence was the exclusive domain of the PAF. However, more recently, the Pakistan Army and Navy had also acquired air defence systems and as a result it was decided to shift air defence to the JSHQ to facilitate better coordination between the three services, all of which were represented in a Committee headed by a DG at the Head Quarters. The Air Chief believed this was a good approach and had not affected the performance or capability of the PAF negatively.

357- The Air Chief recounted to the Commission the achievements of the PAF under his command, which had significantly improved its defence and operational capabilities. These improvements had been made possible through training systems, better prioritization and motivation of PAF personnel. Finally, the Air Chief emphasized once again the need for a clear policy with regard to air intrusions from across the western borders into Pakistani airspace.He had sought such clarity without success so far as the government appeared hesitant in giving clear instructions in this regard.

Commission's Observations regarding the statements of Chief of Air Staff (CAS) and Deputy Chief of Air Staff (DCAS)

358- Like DCAS, the CAS also said that the Ministry of Defence was responsible for formulating the defence policy. In fact, however, the Defence Ministry told the Commission that it had almost nothing to do with formulating defence policy which was the preserve of the Military.

359- The CAS mentioned that the question of reviewing the defence Policy of 2004 had been discussed in the JSHQ although the responsibility for reviewing defence Policy was that of the Government. While constitutionally this is the case, in reality, as noted, defence policy in Pakistan is considered the responsibility of the military and not the civilian government even if the civilian government goes through the motions of providing inputs into a policy making process from which it is essentially excluded. The military's record of regular security policy failures does not in Pakistan seem to add up to an argument for correcting this state of affairs. The CAS conceded that "the mechanisms for threat identification and assessment and for reviewing Defence Policy were a weak area." Unfortunately he also said that "people were generally ill informed and did not know much about hard facts concerning important events". This appeared to be a somewhat arrogant statement. It was also wrong because civil society in general knows far more about the hard facts than the military establishment which has its own much narrower field of expertise. Finally, the CAS's remarks are not consistent with the principle of civilian rule which has to be the foundation on which good governance is build.

360- The CAS observed that the PAF was not concerned with diplomacy or non-military options. But the fact is that in developing integrated national security and defence policies, the PAF and other armed services do need to be aware of the limits of military options. They should frankly convey the need for both military and non-military options to meet emerging security challenges facing the country. The incident of May 2, 2011 was the consequence of the fact that there was

insufficient interface between the civilian and military leadership on the issues of security and defence planning.

361- The CAS and DCAS referred to the Defence Policy of 2004 and the JSD of 2007 as reasons for regarding India as the only threat to Pakistan. This was clearly an inadequate answer. It was earlier stated that since the defence of Pakistan was essentially a land-based defence, the PAF could not come up with a defence policy of its own since its job was essentially one of support for the Pakistan Army. This was an even less satisfactory answer. Of course, overall defence Policy including threat identification needs to be an integrated exercise in which each service must make its contribution with its inputs. The defence of Pakistan's air space is the responsibility of the PAF which had to be fulfilled within this integrated exercise. Given the recent history of US violations of Pakistan's border twice in 2008 (in Angur Adda and Lowara Mandi), and its threats and warnings to Pakistan during both the Bush and the Obama administrations, there was no excuse to completely discount the possibility of further air raids. Between a "peace mode" deployment and an "active defence" mode vis-à-vis there must have been some kind of alert mode appropriate to the developing threat on the western border. It cannot be defense against war or defense against nothing. The number of low level radars could have been increased along with other measures. As already mentioned, the PAF and indeed the JSHQ should have informed the government of the limits of military options in the light of current developments. Instead, a mechanical, unimaginative, and utterly static and inefficient option of relying on outdated policy documents and directives was preferred. This was a grave lapse of professional judgment.

Chapter 20 Inputs of former DCAS AM Shahid Latif

Air Marshall (R) Shahid Latif

362- Air Marshall (R) Shahid Latif appeared before the Commission on March 20, 2012.The Air Marshall noted that had he been the Air Chief, he would have ensured that there were sufficient safeguards on the western border and would not have taken any unnecessary risks especially in view of statements issued by US officials and actions already taken by them, and the developing tension between the two countries. He said that when he was in charge of air operations, he had given the AOC/Air Defence complete independence to deploy assets along the western border as he thought fit, in order to ensure that there were no holes in the Air Defence. He had instructed the AOC/Air Defence that he had the authority to take necessary measures in the deployment of radars so that no gaps were left.

363- The Air Marshall also said most of the anticipated air threats were at low altitude level and radars had to be deployed with this fact in mind.

364- Stressing that radar coverage should not have gaps, he said that during the 1980s, Pakistan had adequate coverage on the western border and even shot down 8 Russian aircraft. At no time was security on the eastern border compromised when full strength was deployed on the western border. The Air Marshall was adamant that this should be true even now since Pakistan had invested heavily in its Air Defence and possessed efficient and modern radar systems to cover both borders simultaneously. There was no trade-off in the 1980s, so there should have been no trade-off today now that defence was much improved. In fact, he noted that Pakistan had gone overboard in terms of the modernization of its Air Defence systems. Accordingly, there was no justification at all for being deficient on either the western border or the eastern border.

365- With regard to stealth technology, the Air Marshall said that there were no truly stealth helicopters that could defeat the Air Defence system of Pakistan. All that stealth technology in helicopters should be able to achieve was to delay detection by radars. Normally, radars would pick helicopters up at a distance of 50 km. With stealth technology, they may be picked up later, perhaps at a distance of around 20 km. With such a system, the US helicopters would have gained an advantage of 30 km. This of course would shorten the response time available to the PAF. However, the reaction of the PAF was too late in any case. If the helicopters had been picked up at the border, as he believed they should have been, there would have been sufficient time to engage the intruders before they reached Abbottabad.

366- As for terrain masking or nap of the earth flying techniques, the Air Marshall said this was a valid factor especially with regard to ground-based radars. If done effectively, it could defeat the Air Defence system and avert detection. However, if the PAF had studied its own terrain it could have made radar deployment plans to ensure that no flying techniques could exploit the terrain to completely evade detection. He noted that the PAF should always have been aware of

the possibility that an enemy could study the terrain to develop terrain masking techniques and create opportunities for undetected intrusions. The Air Marshall wondered whether the relevant authorities had addressed the issue of terrain masking by hostile intruders. He further added that in 2008 when drone strikes were not too frequent, the AOC had drawn the attention of the Air Force to the danger of helicopters disguising themselves as drones since the blip on the radar is the same for both. The helicopters could then use terrain masking and nap of the earth flying techniques to reach targets inside Pakistan. He also noted that radar signatures could be picked up by enemies using Electronic Intelligence to determine gaps in radar coverage. Hostile forces could plan their intrusion and flying techniques accordingly. The PAF should have been aware of its own radar gaps, if there were any, and plugged them to counter any possible threat. He wondered whether the PAF did all that it could have done given its resources and responsibilities. He suggested that it was not essential to know the location of an enemy's intended target in advance for the exercise of plugging radar coverage gaps to be effective. If this was not done then, according to the Air Marshall "the PAF was sleeping."

367- The Air Marshall also alleged that according to very reliable information, available to him "abnormal air activity on the border of Pakistan was noticed on the night of May 1-2, 2011. The pattern of aerial activity was not routine." The large number of aircraft on the Afghanistan side of the border should have been reported. It appeared that the PAF was not aware of any threat, or even sufficiently worried by previous US actions and statements to identify and plug the radar gaps. With regard to high level radars, he said it was possible to calibrate them to cover lower level gaps in coverage.

368- Regarding Mobile Observation Units, (MOUs) the Air Marshall said that they served as the first line of warning. It was a system of human intelligence and had its limitations. Accordingly,

when better systems were acquired, the MOUs were replaced. However, they should have been used in areas where radar coverage was not considered adequate.

369- The Air Marshall was asked whether in view of what he had said, the success of the American air raid represented a potential failure of the PAF. The Air Marshall replied that at any time, in any circumstance, the PAF was responsible for the air defence of the country. There could be no two opinions on this. Similarly with regard to ground defence, the Pakistan Army was responsible. Accordingly, the air raid did represent a failure of the PAF.

Commission's Observations

370- The criticisms made by the Air Marshall are serious and cannot be dismissed out of hand.But his statement that non-routine air activity was picked up by PAF radars on the night of the raid was vehemently denied by senior Air Defence Command officials. The Commission was shown radar tracings for the night of May 1 /2 and for other nights in order to demonstrate that there was no visible non-routine activity on the night of the raid. There were USAF AWACS and F-16 fighters on the Afghan side on the night of the raid. This was not seen as a non- routine pattern of air activity by PAF Air Defence Command. For Air Marshall, Shaid Latif, and those of his persuasion, the presence of such aircraft in proximity of the Pak-Afghan border should have been interpreted as non- routine activity and immediately reported to the PAF ADC. But in the absence of radar detection of the helicopters, the actual significance of such air activity over Afghan territory would not have been apparent until after the incident.

371- The Air Marshall had also stated in his meeting with the Commission that because of a lack of proper Air Defence Planning, the Indian Air force might also have been able to take advantage of gaps in the PAF's radar coverage on the western border to launch a surprise attack

from the west instead of the east. This appears to be an overstatement in view of the fact that for the Indian Air Force to attack Pakistan from the west, it would have to fly over the air space of either China or Iran before entering Pakistani air space. Of course, there was the theoretical possibility that Indian Air Force air craft stationed in Afghanistan under bilateral agreement could launch a surprise attack on Pakistan. Despite differences with Afghanistan this would be an extremely unlikely scenario.

372- The Air Marshall also challenged the distinction between the HARs and LARs with the argument that the HARs could be used for LARs functions to cover low level air intrusions. Accordingly there was no excuse for not having more or less full radar coverage on the western border in addition to radar coverage on the eastern border. This observation was emphatically rejected by the current PAF leadership, and PAF experts told the Commission that HARs could only be calibrated for low level coverage up to a limited extent, and even that carried the real risk of damage to the extremely expensive HARs because of radar reflections from nearby objects.

373- In addition, the former AM gave considerable credence to a news report alleging an intercepted conversation between intruding US helicopters on the night of the raid and an air traffic control post on the Pakistan border. This report was published in "The News" on March 2, 2012. The Commission has examined the report in detail.[10]

374- While the professional competence of the AM cannot be called into question and many of his remarks about faults and shortcoming in Air defence planning should not be overlooked, some of his comments may have been motivated by personal factors instead of objective assessment.

[10] The details of the analysis can be seen at Annex H.

Chapter 21 Investigation report by Army and ISI

Pakistan Army's Board of Inquiry

375- A Board of Inquiry for the Army was established under Lt Gen Javed Iqbal who met with the Commission on October 13, 2011. According to the Board of Inquiry, OBL escaped detection for so long in Abbottabad due to the phased construction and occupation of the Compound, the extremely low profile that was maintained including very low technical signatures that might have indicated the presence of a High Value Target, the clever selection of the OBL Compound in an area few might suspect an HVT would choose to reside in, and the negligence shown by government departments such as NADRA, the Revenue Department, the local Police/Special Branch, the Abbottabad Cantonment Board, Utility Services Providers, the Traffic Police and Excise Department. Additionally, the absence of a local Neighborhood Watch System, inadequate coverage and profiling of Afghan refugees and settlers from FATA who were displaced by the earthquake of 2005 and military operations, poor coordination and duplication within the intelligence community, and qualitative and quantitative inadequacies of

training, skills and equipment in intelligence agencies, with the exception of the ISI, were also explained as reasons for OBL evading detection in Abbottabad.

376- The Army Board of Inquiry's briefing to the Commission noted that the land on which the house was constructed was bought by the OBL couriers/facilitators in July 2004. The construction of the house began in August 2004 and was initially completed in 2005. Later a third storey was added between 2005 and 2006 without permission from the Cantonment Board to change the originally approved two storey building plan. Initially, the families of Ibrahim and Abrar moved into the new house in 2005. Subsequently, around 2006, Osama bin Laden and his family arrived. (The ISI estimates and the OBL diary indicate that he moved in around August 2005.) A low profile was maintained. There were no internet connections, no land line telephone connections, no coming and going of guests and no security guards other than Ibrahim and Abrar who posed as the owners of the property. The high walls and barbed wire were in keeping with similar Pashtun homes in the area where many individuals sought a degree of refuge and security because of traditional tribal feuds. In other words, the site and the house were a good blend of anonymity and security. Moreover, as it was located within the Abbottabad Cantonment it was not expected to draw any attention as a possible terrorist hideout.

377- Ibrahim and Abrar were able to obtain fake national identity cards without any confirmed residential address in Pakistan. NADRA's coordination with other government agencies and departments was not developed enough to be able to verify essential data and avoid inadvertently issuing invalid National Identity Cards (NICs.) Similarly, with respect to the purchase of the land, the Revenue department took no action to confirm the validity of the NICs and therefore failed to ascertain the true identity of the purchasers. Moreover, the Revenue Department

accepted the previous handwritten NICs in July 2004 when the policy of only accepting computerized NICs i.e. CNICs had been in force since December 2003.

378- Similarly, the Army Board of Inquiry's briefing to the Commission noted that the local Police Station in Nawan Sheher was closely located to the Compound of OBL. However, it never observed anything unusual about the place. No report on anything suspicious was ever filed by either the Police Station or Special Branch. Despite its duty to maintain a close watch on developments, it ignored or failed to take note of the visible violation of Cantonment regulations in building a third storey. Nor did they detect anything strange or noteworthy in the manner or activities of the two brothers. The Special branch, moreover, had an additional responsibility to detect any unusual activity, behavior or visits because of the proximity of Pakistan Military Academy. Since VVIPs regularly visited the PMA, sweeps were regularly carried out to ensure against any untoward incident. In this regard the Special Branch was understaffed and underequipped to do a proficient job.

379- Regarding the Abbottabad Cantonment Board, the Adjutant General noted that administratively it came under the Ministry of Defence. It failed to verify the credentials and NIC submitted by Abrar and also did not adequately monitor the building of the OBL house to ensure that it conformed to the approved building plan. Apart from the construction of the third storey (the top or second floor), the height of the boundary walls was in violation of the approved limits. Moreover, no property tax was collected between 2005 and 2007. The Cantonment Board was also handicapped by staff shortages. Similarly, Utility Services Providers accepted fake NICs and did not inquire why four separate gas meters were required by two brothers and their families. In addition, there were some works done inside the house including the tiling of washrooms and installation of gas fittings which in all probability required some service

providers. If they did go to the Compound they failed either to observe anything or to report anything they might have observed.

380- A large number of Afghan refugees had come to Abbottabad in search of work. Many were unregistered. Even so, they were able to rent houses without providing adequate information about themselves and their backgrounds. Over the years this influx had changed the demographic pattern in places like Nawan Shehr and Bilal Town. The security implications of such changes were neither seriously nor systematically studied by the government. Similarly, national disasters like the earthquake of 2005 and the displacement effects of military operations in FATA had impacted the demographic situation in Hazara Division. In this environment it was relatively easy for people of suspicious backgrounds to come in and rent houses in the region without any proper security scrutiny.

381- A plethora of security and intelligence agencies including civilian and military organizations made the coordination and sharing of information difficult. This had a negative impact on the efficiency of counter-terrorism efforts. The Intelligence Bureau, Special Branch and Police were unable to collect and process information that might have made a difference. In particular, because of resource constraints their middle level officials and lower ranks were not trained or equipped enough to adopt new techniques of gathering information.

382- These were some of the reasons, according to the Army Board of Inquiry as explained by the Adjutant General in his briefing to the Commission, why Osama bin Laden and his network of support were able to stay undetected for so long in Pakistan, and in particular, in Abbottabad.

383- The Adjutant General said that the house where OBL stayed in Abbottabad was consistent with "Pathan culture" in that it catered for the seclusion of the womenfolk and also for protection against enemies.

384- Asked whether in his view the officials of NADRA, the Cantonment Board and the Revenue Department deliberately ignored their responsibilities or whether their negligence was a matter of routine, the Adjutant General thought it was more a case of the latter. Most institutions had unfortunately deteriorated over the years and had developed a lax attitude towards the discharge of their responsibilities. Dedicated efforts would be required to strengthen state institutions down to the Tehsil (district and sub-district) levels. Similarly, he noted that theSpecial Branch lacked the necessary resources and manpower to cover the entire area of its responsibilities. It was particularly deficient in transport and equipment.

385- The Adjutant General did not think any religious faction or group within the armed forces had provided any kind of protection or support to OBL during his stay in Pakistan. The reason for this was the fact that the Pakistan Army functioned in accordance with laid down procedures; it was disciplined and organized, and a system of checks and monitoring was in place at all tiers of its command structure. Moreover, prompt action was taken against any elements found to be in violation of discipline and the rules and regulations of the Army.

386- However, he conceded the possibility that some retired officers could have been involved in a support network but did not think it likely. The Army had suffered considerably at the hands of Al-Qaeda and militants. Accordingly, he said unlikely, if not, unthinkable for serving or retired members of the armed services to collaborate with such hostile organizations.

387- Interestingly, the Adjutant General did not rule out the possibility of ground support for the American raiders. He was of the view that the poplar trees next to the boundary wall of the OBL Compound were deliberately cut down to facilitate the approach of the US helicopters because there were high tension wires on the other side of the Compound. This is of course interesting because according to Amal or Khairiyyah, OBL was himself concerned about the trees and wanted to buy them to cut them down in order to prevent snoopers using them as cover to see into the Compound. There is a third version with regard to the trees that is supported by the ISI and the Home Department of KPK, according to which the owner, a lady called Gul Bibi, sold them to pay the school fees of her children.

388- The Adjutant General observed that in his interactions with Americans, the subject of OBL's possible presence in Pakistan would come up from time to time. But there was never any suggestion that he might be in the area around Abbottabad. He thought the Americans had ground support for their operation, and a network directly or indirectly facilitated the identification and location of OBL in Abbottabad. He cited the case of Dr. Shakeel Afridi, who was recruited by the CIA, and played a role in the CIA's effort to locate and identify OBL.

389- The General felt it was absolutely essential to address the security and intelligence systems in order to "plug loopholes." If only officials at lower levels were punished it would not serve any purpose. It was necessary to "revisit" the functioning of state organs at all levels. Otherwise, the country could be exposed to similar situations again. The whole system had become "non-active" and was unable to act pro-actively. There was "complete lack of coordination between the different institutions." This situation had to be addressed and he hoped the Commission would do so and make specific recommendations. In particular, he stressed the need to de-politicize the police as a pre-condition for improving its efficiency.

390- The Adjutant General believed that neither the Army nor the ISI had overstepped their respective areas of responsibilities. However, they were often forced to fill the vacuum created by the failure of civil departments. The ISI, according to him, had done a tremendous job in "thwarting the enemy and keeping it at bay." He added that "the civilian intelligence agencies do not have the capacity and resources to cope with the prevailing security situation." However, they would have the ability to meet existing challenges if their capacity was enhanced and they were allowed to work properly.

391- The Commission suggested that if the military and the ISI moved in whenever civilian incapacity created a vacuum it would lead to the military and the ISI operating without proper legal cover.The General's own view was that there was no requirement for any further legal cover for the working of the Pakistan Army. There was a well defined chain of command and Standard Operation Procedures (SOPs). There was the Blue Book and the role, functions and charter of different organizations were duly covered and defined by law. There was the Army Act and the Army acted in accordance with clear directives of the Government.

392- With regard to alleged unregulated entry of foreigners including foreign intelligence personnel through entry points such as the Chaklala Airbase, the Adjutant General said proper immigration formalities were followed. Areas where foreigners were permitted to visit were specified along with the date and duration of their visits. The concerned formations of the military services recommended visas for specific individuals for specific tasks. They ensured that the movements of individuals granted entry into the country were limited to agreed places and purposes. Visas for foreign nationals working with the Pakistan Army were processed by the Joint Services Headquarters which issued No Objection Certificates. A proper record was

maintained for each foreigner granted a visa for entry, and similar procedures were followed with regard to the exit of foreigners working with the armed services.

393- With regard to the state of coordination between the ISI, the Military Intelligence (MI) and civilian intelligence agencies, the General observed that each intelligence agency usually worked on its own and only shared information on a need to know basis. They worked under their respective chains of command and submitted their reports through them. There was relatively greater coordination and sharing of information between the ISI and the MI. But inputs were also received from civilian intelligence departments.

394- However, when asked if any legal cover was required for the Pakistan Army's participation or facilitation with regard to the so-called War on Terror, the General answered that he personally thought such a legal cover was required even though this was a matter for legal experts to pronounce on. He noted the Government had not finalized the Anti-Terrorism Act which was pending for the past 8 or 9 years. This had caused serious problems for the Army as a large number of terrorists arrested by the Army or the Police during operations in FATA and Swat were still awaiting trial. Regarding the presence of OBL when the US raid occurred, the Adjutant General commented "it is the bitter truth that OBL was present in the house."

ISI Investigation Report

395- A team of interrogators (comprising of Brig. Muhammad Aslam, Lt. Co. (Retd) Muhammad Tariq and Lt. Col. (Retd) Khalid Qasim from ISI) briefed the Commission about their findings related to the incident. Brig. Muhammad Aslam, the head of the team, noted that the ISI had technical experts in criminal law and criminology. It also had the assistance of its Special Investigation Branch (SIB) with its legal experts.

396- The ISI Investigation Team was unaware as to who was the real owner of the trees outside the OBL Compound. The team sought further time to make a thorough probe.

397- After the surviving residents of the OBL Compound were taken into custody by the ISI, they were kept in complete isolation for days. Thereafter the process of debriefing took place according to the relevant SOPs.

398- The team was asked about the US explanation that one reason for not sharing information about the presence of OBL or about the special operation was because of its fear that this information could be leaked. That was why the operation was conducted unilaterally. The ISI denied this by saying this might have been said with respect to FATA. But this explanation could not apply to Abbottabad. It had no justification. In fact the record showed that whenever any information was made available regarding the possible location of OBL a dedicated attempt was made to capture him. But each time the information communicated by CIA did not turn out to be authentic. The ISI told the Commission that after the Tora Bora operation, the CIA had closed its special unit which was set up to hunt OBL. Moreover, the ISI said, OBL had not been active since 2005. All operational activities of Al-Qaeda were controlled by Aiman-al-Zahwari. Accordingly, the ISI team told the Commission, "everyone, including the US" thought OBL was no longer alive.

399- The ISI informed the Commission that Major Amir Aziz had not been investigated but he would be later on. The ISI team said US officials visited the OBL Compound after the incident and ISI facilitated the visit. Permission for this was "probably" granted by the Ministry of Interior. The CIA had rented a number of houses in Islamabad and a comprehensive report on the subject was sent to the Government. The ISI had not uncovered any connection between

Raymond Davis and the Abbottabad operation. The team said it was not aware whether ISI had any role in the issue of visas to foreigners before the May 2 incident.

Commission's Observations

400- The attention of the team was invited to the statement of Maryam w/o Ibrahim that when she returned to Abbottabad shortly before the May 2 incident, she found "guests" in the house. The team was asked whether it had queried this statement of Maryam, and if not, why it was ignored. The ISI team observed that the statement was of a woman who kept changing her statements. The suggestion was that this was an acceptable explanation for ignoring her statement which might have had significant implications. This was not professional investigation. Who was Maryam referring to as "guests" she "found" on her return? The sentence suggests she found some people who were new to the Compound. This may well not be the case. But it was ignored as the nonsense of a woman.

401- SOPs were apparently not strictly followed so all the HVTs who were arrested were quickly handed over to the US. As a result the ISI again failed to obtain possibly critically important information. At a meeting, the ISI informed the Commission that often enough Arab militants refused to disclose information to them which later they readily confessed to the CIA. This, of course, did not reflect well on the competence of the ISI, or the esteem in which it was held. Of course it is also possible that because they know they were going to be handed over to the CIA, it made more sense to cooperate with Americans.

402- The ISI assertion that everyone including the US thought OBL was no longer alive was obviously incorrect. The US may at some time have believed that OBL had probably died, but it never closed the file on him. It never stopped the man hunt. It just stopped sharing information

with ISI. For the ISI to suggest that it stopped its own search because it thought the US had done so showed both its naïveté and its lack of commitment to eradicating organized extremism, ignorance and violence which is the single biggest threat to Pakistan.

403- The Commission cannot escape the conclusion while the ISI simply took over the search for OBL after the US conquest and occupation of Afghanistan and later, the investigation of May 2, 2011. It completely failed to track down OBL. There was no real search for OBL allowing its foreign and domestic critics to allege that its operatives were too close to their "assets" in the field who would never tolerate a betrayal of OBL who for them was an even bigger symbol of "heroic resistance to the corrupt West," than Al-Qaeda itself. The pretence that the ISI leadership was in command was exposed by the fact that they dared not offend their most zealous operatives, gave the ISI its fearful reputation. The country suffered military humiliation, national outrage and instrumental isolation.

404- The CIA networks (how many we do not know) to locate OBL, kill OBL, to engage in other "dirty tricks" and "black ops" insinuated their presence in Pakistan under the cover of NGOs, local recruits and trained "thugs and killers" like Raymond Davis who got visas on demand – no questions asked. The handling of the Raymond Davis case was itself a national disgrace in which the ISI played an inglorious role. The ISI, no wonder, lost control over both violent Jihadi militants extremists on the one hand, and the CIA special operatives and dirty tricks killers on the other. Even after May 2, the ISI failed to reveal much about the details of OBL's network of support beyond the two dead Pakistani security guard cum couriers Ibrahim and Abrar, the OBL residence in Haripur, and the testimonies of the wives of OBL and the wife of Ibrahim. It has not even located the residences in Quetta, Peshawar, WANA, Swat, Karachi, etc. where OBL and/or

his family stayed during their long sojourn in Pakistan. It just prevented other authorized agencies from doing possibly a better job despite their relative lack of resources.

405- The DG ISI while acknowledging that the ISI was also part of the systemic problem confronting Pakistan correctly pointed to "the real problem which lay in the inability of the state to establish its writ." This was due to a weakened overall bureaucracy and an overcommitted and overstretched police force, both at the federal and provincial levels. It was in this environment of systemic dysfunctionality that the ISI appeared to be doing things that were formally beyond its mandate, including the fight against terror. This, he said, was the explanation for the ISI taking over Counter Intelligence. Civilian state institutions were highly politicized. This had led to the ISI being "over burdened" by responsibilities that did not fall within its Charter. The police, he said, worked in "pathetic conditions," which was why it could not do its job and the ISI had to fill the vacuum. But with all its resources the ISI also failed mainly because it was even more involved with the political, power and "ideological" structures of the country. It had become more political and less professional and the country suffered on both counts.

Chapter 22 Civil and Military Intelligence Chiefs

Acting Director General, IB

406- The Acting Director General Intelligence Bureau (IB) said that when Pakistan was created in 1947, the IB was the only agency responsible for dealing with security matters, both within Pakistan and abroad. The ISI was established during the conflict with India in 1948 over Kashmir. Since then the role of the IB had been diminishing. In 2005 its charter was revised and its role was limited to internal security. External and international issues were handed over to the ISI. The IB now looked after law and order, "political fallout" and internal security. Political fallout appeared to be a euphemism for the IB being a political arm of the office of the Prime Minister.

407- The IB had monitored and reported on the activities of outfits like the American security firms, Black water and DynCorp. It informed the government of the increased activities of foreign NGOs and agencies and that there was an urgent need to monitor their activities. IB reports were submitted to the Prime Minister and sometimes to the Foreign and Interior Ministries. Foreign NGOs were registered with the Economic Affairs Division (EAD). All NGOs, of course, were not involved in anti-state activities. Sometimes foreign intelligence personnel infiltrated foreign NGOs that were otherwise doing good work.

408- With regard to counter-terrorism, the IB had a separate and dedicated Wing which worked directly under the DG IB. Counter intelligence had not been given the importance and priority it merited. It was always part of one Wing or the other and did not have a dedicated Wing of its own. Moreover visa regimes were often changed to attract foreign investment ignoring vital security aspects.

409- The ADG pointed out to the Commission that the IB had limited human resources. For example there were only 8-9 employees working in Abbottabad. Accordingly, it was unable to notice anything unusual. Moreover, no specific instructions or directives were received from any quarter after the arrest of Omer Patek.

410- Regarding the Technical skills and capabilities of IB for analyzing information collected through "tapping telephones", the ADG said that IB got such assistance from ISI due to non-availability of special equipment.

411- The ADG also noted that all prepared reports were sent to the Prime Minister but mentioned no mechanism of how the process worked. He said that during his tenure he was never called by the Prime Minister, nor had he received any specific directions from him.

Commission's Observation

412- The Commission read through a report regarding the May 2 incident prepared by the ADG (IB) and noticed that it was not comprehensive and mainly based on reports published in different newspapers. An in-depth probe was not made, and various important factors of the incident were ignored. A cursory and casual mention has been made in the report about Abrar/Arshad, who purchased the land on which the OBL Compound was constructed. No inquiry was made from the concerned Revenue authority and the IB did not even bother to inquire as to whether the land in question was mutated. The Cantonment Board in Abbottabad was never contacted to find out details of the plan of the Compound, issuance of NOC for completion of the Compound and payment of property tax. No thorough probe was made regarding Ibrahim and Abrar and their families and backgrounds, their sources of earning, movements in Pakistan, and how they arranged support and transport for OBL and his family for their stay in Swat, Haripur, Abbottabad, etc.

413- Responding to a question posed by the Commission, the ADG said that the charter of IB was revised in 2005 and its role was now limited to internal security including law and order and "political fallouts." The Commission gained the impression that the IB instead of being one of the main security institutions of Pakistan had become little more than a Post Office. The ADG emphasized the need to monitor foreigners and foreign NGOs in Pakistan but he could not point to any mechanism that the IB used for this purpose. He said NGO employees worked for foreign security agencies but he failed to identify the NGOs or refer to any IB report on the subject which had been submitted to the Prime Minister for instructions.

414- Once again it has to be emphasized that this sad state of affairs reflected incompetence and lack of initiative on the part of civilian agencies on the one hand, and the actions of more powerful non-civilian agencies that were able to deny space and resource to the civilian agencies on the other.

Director General IB

415- The statement of DG (IB) was recorded on September 26, 2011, when he also submitted a report with his views on the subject at hand. The report was examined and in order to have certain clarifications, the DG met the Commission again on November 30, 2011.

416- He categorically stated that no information prior to the incident was available with the IB. He pointed to certain problems with regard to manpower, training, salary structures and accommodation in his institution, and pointed out that the salary of Police personnel in Islamabad (ICT) and the provinces had doubled. In Punjab, the widow of a Shaheed got a compensation of Rs 3 million, full pay till superannuation of Shaheed, and full family pension. Such facilities are not available in the IB. Moreover, while an IB Training Academy has been established, it is at a preliminary stage.

417- The DG said that the May 2 incident was not just a major intelligence failure or the failure of one or two lead agencies. It was a collective failure. All the intelligence agencies shared in the failure. It was difficult to describe the scale of the failure to detect the most wanted man in the world who was alleged to be living in Pakistan and who, despite consistent denials, turned out to be actually living in the country for a decade. OBL had successfully melted into the local population (in fact, of course, OBL and his family remained completely isolated from the local community).

418- DG IB said that Khalid bin Laden had married a local girl named Maryam according to information from IB officials in Abbottabad.

419- As for information sharing procedures and modalities between the IB and the ISI and between the IB, Special Branch and the Provincial Governments, there was nothing in black and white. He had neither been asked nor did he feel it necessary to send a report on the May 2 raid to the Prime Minister (To whom he reported, and who was also the Chief Executive of the Government of Pakistan!)

Commission's Observations

420- His remark that Khalid, the son of OBL, had married a local girl was supervising. Khalid was reported never to go out except occasionally to the dentist. But he could have got married before coming to Haripur and Abbottabad. If there was any credibility to the claim, it should have been followed up. If it turned out to be true and if Khalid's local wife was traceable, it could have led to very significant information. But either the DG was indulging in idle gossip with the Commission or there was no commitment or interest on the part of the IB (or ISI) to ascertain the full truth about the prolonged stay of the OBL family in Pakistan.

Acting Director General, FIA

421- The Acting Director General, Federal Investigation Agency (FIA) said his agency had no evidence or any kind of information relating to the Abbottabad incident. He had not read the Schedule to the FIA Act of 1974, which included the Anti-Terrorism Act of 1997 listing the responsibilities of his Agency. OBL's family had travelled between Pakistan and Iran but the FIA had failed to notice anything in this regard and was asked whether monitoring border crossings was part of his duties. He replied that the FIA had not received any specific

instructions regarding the family of OBL. The FIA was the premier criminal investigating agency but tracking terrorists and preventing their entry or exit across the international borders was not entrusted to it.

422- The FIA and the local police were responsible to check illegal immigration and crossing of borders. It had established a border check post in Taftan, Balochistan to check illegal immigration but many illegal crossings took place as a result of corruption and collaboration with border officials despite the existence of "strict instructions" to ensure adherence to laid down procedures. Immigration was the sole responsibility of the FIA and control of entry and exit points was in the mandate of the Agency. But because of systemic, institutional and individual deficiencies solutions that are possible do not happen.

423- At Chaklala airport there were reports that in many cases foreigners did not come through the FIA counters. The Commission was informed that in the past the Americans used the Chaklala Airbase where the FIA had no counter. However, the FIA had established its counter and everything was now "organized." After the earthquake of 2005, foreign NGO workers involved in relief and rehabilitation were allowed to come to Pakistan without obtaining visas from Pakistan's missions abroad. Their visas were given them on arrival.

424- The FIA was unaware that foreigners had hired well over 300 houses in Islamabad. It was also not aware of the activities of those who had hired these houses. Nor had the FIA ever reported or protested to the government about the violations of immigration laws. The "prescribed mechanism was not functioning properly" and the FIA were just as politicized as "other organizations of the government," according to the ADG.

425- With regard to counter terrorism the FIA analyzed information and submitted reports to concerned quarters. The organization was able to provide forensic analyses of explosives as well as information regarding the possible source of the explosives used in acts of terrorism. The Counter Terrorism Wing of the FIA coordinated its work with the ISI. The counter-terrorism wing had only 79 personnel while the FIA as a whole had a sanctioned strength of 3500 although its working strength was 2500. There were a thousand unfilled vacancies because of a ban on new recruitment. The FIA was not involved in the Raymond Davis case and did not have a proper terrorist database although data regarding some terrorists was available.

426- As to the issue of foreigners in Pakistan, the ADG said that "Immigration" is the sole responsibility of FIA and control of all the Entry and Exit points is within the mandate of FIA. He admitted that about half a million illegal immigrants are living in Karachi alone and FIA along with local police and Alien Registration Authority is responsible for this situation.

Commission's Observation

427- The Acting Director General conceded he had never gone through the Schedule appended with the FIA Act 1974 which included certain enactments that were related to checking the menace of terrorism. The FIA had powers conferred upon it which entailed obligations to carry out. But the Acting Director General FIA did not know much about them. He could not point to any major case relating to counter terrorism handled by the FIA. He maintained that analyzing information and furnishing reports to the relevant quarters was the only function assigned to FIA. This, however, was not correct according to the law.

428- The ADG demonstrated a woeful lack of efficiency and legal knowhow as well as considerable ignorance about various important issues pertaining to his own institution. He was not aware of Parliamentary legislations concerning the FIA. This was very disappointing. However, once again it must be said that the ADG was working in an environment in which more powerful although unauthorized intelligence organisations arrogated to themselves many of the responsibilities of the FIA. Accordingly, these unauthorized agencies and organisations must also be held responsible for the poor performance or non-performance of relatively powerless institutions and their offices.

Director General, Military Intelligence

429- The Director General Military Intelligence (DG MI) met with the Commission and said that counterintelligence and counterterrorism at the country level were not part of the responsibilities of Military Intelligence. It was concerned with these matters only with respect to the military of Pakistan. In general, the country's existing intelligence structures, systems and resources were not adequate to deal with the scale of present challenges. Accordingly, emphasis should be on remedial actions, reforms and better preparations to face future challenges.

430- With regard to the OBL Compound, the DG said the neighborhood was thinly populated with most of its inhabitants having moved into the area after the earthquake of 2005. The essence of OBL's security strategy was secrecy. His cover was "close to perfect." The two brothers, Ibrahim and Abrar, posed as middle class businessmen who had moved to Abbottabad because of family feuds which explained the odd design of the house. They maintained a reserved but cordial relationship with their neighbours and maintained a simple, conservative and religious lifestyle which earned them the respect of their neighbours.

431- The DG MI said that the Commanding Officer of the 408 Intelligence Battalion had collected blood and hair samples from the house. Brain matter was also collected from OBL's bedroom. DNA testing had confirmed the relationships between the persons residing in the house.

432- According to the DG MI one of the difficulties facing agencies such as the MI included "the non-responsive behavior of society." People did not notice strange behavior and developments, or if they did, they were not inclined, encouraged or secure enough to report them. The DG MI added his voice to the common refrain, even among senior officials, that "our whole system has become dysfunctional." Anyone could buy anything they wanted including sophisticated arms, ammunition, vehicles of all kinds, etc. In such an environment, "putting all the blame on security agencies was not the right way to address the challenges." In fact, given the circumstances, the intelligence agencies "had not done a bad job."

433- According to the DG MI the subject of public inertia or indifference came up for discussion in several meetings at high levels. But the problem was lack of public understanding and support. In other countries, the general public as well as institutions like banks, hospitals and property dealers were aware and supportive enough to report suspicious events and people to the police. There was "connectivity" between society at large and the law and security enforcement agencies. This was unfortunately not the case in Pakistan. There ought to be a law requiring the public to inform law enforcement authorities (LEAs) about unusual happenings. The DG MI felt there was a "void, especially at the top." (It is, however, not altogether clear how legislation can address the problem of public ignorance and alienation.)

434- It was put to the DG MI that for most of its history Pakistan had been ruled by the military which had resulted in the empowerment of individuals rather than institutions. Moreover, there was no accountability of the security agencies. As a result, there had been a complete failure of the intelligence system. The DG MI said there was a system of accountability and actions had been taken against persons found to be at fault with regard to the Abbottabad raid of May 2, 2011. The Commission asked for a list of such persons. It also asked about the charges that were brought against the persons against concerned. The DG MI said no specific charges were brought other than "non-communication of timely information."

435- When asked about the major lapses and failures with respect to the Abbottabad incident, the DG MI said they were the lack of capacity and cooperation between the intelligence agencies. Had the intelligence system been effective as a whole, "we would have reached OBL." (This, of course, begged the question: why was only the ISI almost exclusively dealing with the problem of OBL and Al-Qaeda, even though, both the IB and FIA had counter terrorism responsibilities?)

The DG MI was asked to elaborate on his statement that the US operation could not have taken place without ground support. He responded by saying that for such an undertaking "situational awareness" was necessary. For this the CIA would need to have its own people on the ground.

436- He also visited the place of occurrence along with Major General Allah Ditta Khan, Director General Counter Terrorism of ISI and Lt. Col. Mohammad Waqar Arshad. The DG MI mentioned the following details:

- The Compound is located in Garga segment of Thanda Choa, Abbottabad Cantonment and was constructed in 2005. The neighbourhood is sparsely populated, as most of the residents moved in after the Earthquake of 2005.

- To hide the presence of OBL and his family, Al-Qaeda had selected an unlikely vicinity (a peaceful locality close to Pakistan Military Academy) and hence reliance was on security through secrecy.

437- According to DG MI, on the evening of May 1 at 2300 hours (roughly 90 minutes before the US reached the OBL Compound) the MI received information that five SUVs had exited the US embassy in Islamabad. At a crossing (Golra Morh), the Pakistani drivers of the vehicles were offloaded and sent back to the Embassy. The vehicles then apparently headed for Attock. The records do not indicate the vehicles used the motorway. This was a preliminary report, however, which was not confirmed.

438- Regarding the existence of a CIA safe house near the OBL Compound, the DG said a house had been located which might have been the safe house. But there was no concrete information available at this stage, and there was no information regarding a safe house before the operation.

439- The Commission put it to DG MI that no one believed that the most important HVT of them all could have been in Abbottabad for such a long time without being noticed. Could it be that some rogue elements in the intelligence community helped OBL in addition to his two courier guards? Could some retired officers have been involved? The DG MI replied that "there are no rogue elements in the intelligence establishment." That was reassuring if not entirely convincing. There have been frequent reports about the organizations like the Hizb al Tahrir having influenced some active and retired senior officers. The DG MI specifically ruled out the possibility of the involvement of retired officers. Everyone knew each other, he pointed out; if any retired officer was linked with any extremist group it would have been easily noticed.

440- Regarding the reportedly alarming scale of the CIA penetration of Pakistani society and institutions, he said the intelligence agencies were now more focused and had put a lot of pressure on the CIA. All their personnel were kept under strict surveillance. The CIA had "betrayed" Pakistan and "tarnished its image." This could not be tolerated.[11]

441- DG MI admitted that after the arrest of Umar Patek in Abbottabad no specific effort was made to check on the presence of other HVTs in the area. It was suggested to him that since there had been reports about the possible presence of terrorists and HVTs in the area, this omission indicated the possibility of something more than mere negligence. The DG responded by saying there were so many reports and everyday there was a new story about OBL. Moreover, there was news of his illness and death in Tora Bora, and it was generally thought that if OBL was still alive it would probably be somewhere in the tribal areas.

442- The MI chief said that previously, cantonments were largely closed garrisons. Now there were open garrisons of which Abbottabad was one. A large number of civilians lived in cantonments limits, where there were also police stations. But because of "politicization" the police had not been able to perform its functions effectively. The antecedents of residents in cantonment areas were now being checked more effectively, especially of foreigners and those working with NGOs. The validity of their visas was regularly checked.

443- The DG added that the Americans had reportedly taken a treasure trove of information from the OBL Compound. Had there been anything to suggest the connivance of any Pakistani agency surely they would have communicated the fact or used it to blackmail Pakistan.

[11] Insert figures for US staff reduction

444- He also mentioned that as the Abbottabad incident took place in the Cantonment area, MI was required to step in and accordingly it collected information and shared it with ISI, which took the charge of the scene. Whatever was collected from the site was handed over to ISI. Regarding the information sharing formula between MI and ISI, he said there was no specific formula and information is shared on need to know basis. There was no sharing done at the initial development stage. The role of MI was Army-specific while ISI was the lead agency and information sharing was normally done at the Director General-level. Lower level information sharing created problems. The DG said all the functions were performed in accordance with the constitution.

445- Regarding which agency was responsible for events happening on the international scene, the DG said that ISI had responsibility for analyzing and assessing developments at the regional and global levels. The Defence Attachés posted in Pakistan Missions abroad also kept a watch on events taking place in their respective host countries.

Commission's Observations

446- The Commission noted that while the MI appeared impressive on paper, its record was not as impressive. It had failed to anticipate the attack on the GHQ in Rawalpindi in October 2009, the US raid on OBL and later the attack on PNS Mehran in Karachi on May 22, 2011. The DG MI said these incidents did not reflect the overall record of the MI. A large number of unpublicized successes were also part of its record. However, he observed that if a terrorist was willing to sacrifice his life "nobody can stop him." This, of course, is simply inaccurate. Suicide bombers may cause considerable loss of life, but in general do not have a high rate of success against VIP targets. Otherwise, people like President Obama should long be dead.

447- Despite considerable CIA activity in the Abbottabad region prior to May 2, the MI had no inkling of what was happening. Similarly, it had no idea about the presence of OBL. Even after the arrest of Umar Patek there was no serious study of the possible implications of his decision to visit Abbottabad. There was no decision to step up surveillance measures in Abbottabad, especially as it was a Cantonment in which important military institutions were located. While the ISI's de facto jurisdiction was much broader than that of the MI, nevertheless Umar Patek and other militants were captured in an area that was part of the Abbottabad Cantonment.

448- It is important to note that the security of COAS is part of the responsibility of MI. In view of the COAS' frequent visits to Abbottabad Cantonment the MI should have been extra vigilant in its surveillance of the area, including the OBL Compound which was located in proximity to the PMA. The fact that this was not done reflected adversely on the performance of the MI. The DG MI conceded frankly that his statement and presentation before the Commission were not intended to absolve him or his institution from sharing the responsibility for not detecting OBL's prolonged presence in Abbottabad Cantonment.

Director General ISI

449- The DG ISI said the deliberations of the Commission were of critical importance as they would have a direct bearing on the ISI's functioning as "the first line of national defence." The professional standards achieved by the personnel of the ISI as well their sacrifices in "blood, sweat and time" were something to be proud of. He noted that rival foreign intelligence agencies, especially the CIA of the US and RAW of India, never missed an opportunity to attack the ISI and damage its reputation. The ISI took their efforts in this regard as "a compliment to its

achievements." But when unfounded criticisms were echoed by Pakistanis themselves without any supporting evidence it was, to say the least, "disturbing."

450- The DG ISI accepted that the ISI's record was not without blemish. Many "decent people" had been harmed by some of its errors. But the ISI had learned from its experience. Today it was on the right course and had made many "changes to its mindset, culture and methodology." As a result, those who still criticized and feared the ISI were people "who should fear the ISI" as they more often than not were working against the national interest.

451- The American "sting operation" of May 2, 2011 was described by many as an intelligence failure. Some had even leveled allegations about the ISI having links with Al-Qaeda. Some of the country's retired leaders, senior retired officers, the intelligentsia, and the media "outdid foreign adversaries" in their criticisms of the ISI. At a time when it was essential for people to unite in their condemnation of the American action, many critics became "emotional and unbalanced" in their criticisms of the "core institutions" of the state. This had provided an opportunity to the West and others to raise the pressure on Pakistan on the basis of unfounded allegations.

452- The Charter of the ISI was primarily concerned with external intelligence. But its functions were progressively extended to internal developments. The DG said the period of the 1980s was crucial in the history of the ISI. There was the Soviet invasion of Afghanistan, the Indian military buildup culminating in the BRASSTACKS exercise, large scale subversive and sabotage actives conducted by the Soviet Union's KGB, RAW and the Afghan KHAD in urban centers. These challenges enlarged the spectrum of ISI's activities. The September 11, 2001 terrorist attacks on the US brought about another "paradigm shift" for the ISI. It restructured itself to meet "the new

challenges, and to transform itself into a dynamic and modern intelligence agency suited to the requirements of the 21st century."

453- The Government of Pakistan never tasked the ISI to deal with counterterrorism. The ISI had assumed this responsibility "in response to the dysfunctionality of the prevailing system and the ineffectiveness of other state organs." Another reason was the fact that "the President of the country so often happened to be the serving Chief of the Army Staff (COAS)."

454- Accordingly, the Counter Terrorism Wing (CTW) was established in the ISI in November 2007 as a result of Pakistan's decision to support the global war on terror GWOT. Initially the CTW was a small section and later it became a fully-fledged wing of the ISI. Its tasks included carrying out CT threat assessments, coordinating with law enforcement agencies (LEAs), acquiring and collating intelligence for dissemination to LEAs, assisting all countries in the "global war on terror" through exchange of operational intelligence and assessments, and supporting the government's CT and "de-radicalization" efforts.

455- Despite the formal role of the Ministry of Interior and other agencies, the ISI "paradigm shift" towards taking over the functions of other civilian intelligence agencies "needed to be understood in its proper perspective." The people of Pakistan were angry because all other security institutions had failed. However, "they reposed their confidence and expectations in the ISI." On the one hand this was "a burden for the ISI", but on the other, it was "a matter of great pride." Because of these great expectations, when the US raid of May 2 occurred the people perversely flew into a frenzy because of "disappointed expectations." They held the ISI solely responsible for the national disaster and humiliation. Many others, with ulterior motives, joined

in this chorus of condemnation. They ignored the responsibility of other entities. "The silence of the political leadership," and of others responsible for national security, "was deafening."

456- It was important to take note of the charters of responsibilities of the other security agencies including the Ministry of Interior, the Intelligence Bureau (IB),the Criminal Investigation Department (CID), the Special Branch, the Police, and the Armed services Intelligence, i.e. Military Intelligence (MI), Air Force Intelligence (AI) and Naval Intelligence (NI).[12]

457- Of the 24 tasks mentioned in the ISI's Charter of 1975, only a part of one related to internal security. None of the other agencies in the aftermath of 9/11 "realigned their tasks in order to focus on the primary threat of terrorism." Very little coordination existed with regard to the sharing of terrorism related intelligence with the military intelligence services. The DG said that the Police should have had a comparative advantage with respect to internal security tasks since it had its "tentacles" down to the district level. The CID, Special Branch and, of course, the Police had advantages over the ISI because of their spread, area coverage and local knowledge. The ISI was mandated to perform tasks in the realm of strategic intelligence only. Moreover, since 9/11 it conducted operations in the field of strategic counterintelligence (CI) focusing on the FATA and PATA areas.

458- The ISI had intelligence sharing with the CIA regarding OBL based on technical and human leads, exchange of information and expert level meetings. Both the intelligence agencies were of the view that OBL was "in the region" but they did not have specific information regarding his location. Nevertheless, the capture of certain HVTs by the ISI through joint operations during the period of 2002-2005 led to the extraction of important information. The

[12]charters of responsibilities of security agencies are attached at Annex I.

most important breakthrough was the arrest of Abu Faraj-al-Libbi who was number three in the Al-Qaeda hierarchy. (He had stayed at a place not far from the OBL Compound which was raided. But he was able to escape.)

459- Khalid Shaikh Mohammad was arrested on March 1, 2003 and handed over to the Americans four days later. While under detention in Pakistan "he was ill and did not divulge any information regarding OBL's location." (He was reportedly "water boarded" almost 200 times by the CIA, which apparently had less concern for the state of his health.) Subsequently, the CIA shared disjointed and out of context information with the ISI but did not share the likely significance of the shared information. The information leads that it did share regarding the location of OBL turned out to be false leads. This included information about OBL's alleged presence in Sargodha, Lahore, Sialkot and Gilgit. OBL in fact never visited any of these places. Similarly, a CIA human source suggested OBL's location in Sanga village in South Waziristan, which could not be confirmed. A Saudi source reported the presence of OBL in 2005 along the Pakistan-Iran border in a village, Ishaq Khel, Balochistan. According to the DG, the last time the CIA shared any information about OBL was in October-November 2005 when a person supposedly resembling OBL was sighted in Darosh, Chitral.

460- After that, between 2009 and 2010 the CIA shared four telephone numbers with the ISI indicating that they were related to Al-Qaeda in FATA. No names were specified. These numbers were monitored but were found to be switched off so their users could not be identified and located although the CIA knew they were connected to Ibrahim and Abrar – also known as the Al-Kuwaiti brothers. According to the DG, every effort was made by the ISI to develop intelligence on these telephone numbers. (The numbers were not switched off 24/7 – the ISI was apparently less than thorough in monitoring them.) Had the US provided more information, the

ISI may have succeeded in tracking down the couriers. The Kuwaiti intelligence was also contacted but they were of little help. Nevertheless, the DG admitted the numbers should have been kept under constant monitoring.

461- In 2010 various senior US officials including the Secretary of State and the Director of the CIA made statements about the likely presence of OBL in Pakistan with the knowledge of elements within the intelligence apparatus. The DG said the ISI conveyed two memos asking for more precise information regarding the location of OBL on the basis of which these statements were presumably made. There was no response from the CIA. (At the time the CIA was in process of verifying OBL's presence in the Compound which the CIA had located.) Thereafter, the CIA kept the ISI in the dark and operated on its own with regard to OBL.

462- The ISI was "neither complicit nor incompetent with respect to the presence of OBL in Pakistan." The DG noted that the record of the ISI in the war against terror, including against Al-Qaeda, spoke for itself. HVTs of the stature or notoriety of Khalid Shaikh Mohammad, Khalid bin Attash, Abu Farraj-al-Libbi, Hamza Rabia, Abu Laith-al-Libbi, Abu Jihad, Said-al-Masri, Salehi-al-Somali, Omar Patek, Yunis-al-Mauritani, had been killed or arrested and handed over to the CIA. Moreover, if the ISI was protecting OBL, why would it provide information regarding the Kuwaiti brothers? It would already have known the phone numbers and would not have hidden OBL in such an exposed building. (The US insinuation was not that the ISI was protecting OBL, but that element within or associated with it were probably doing so.)

463- According to the DG there were "various voices" that had raised questions regarding the role of the civilian political leadership and the government. These questions related to determining the content of the national counter terrorism policy and the lead authority for its

consult President Musharraf. Anticipating some Pakistani reservations, the Americans prepared a second list of their demands only to learn that their original demands had been accepted in to without any hesitation. The Americans were mystified and wondered how Pakistan had caved in so promptly and so completely.

466- As a result, the Shamsi Airbase which was given to the Americans for "facilitation purposes only" had been "developed to a functional level and was used for Predator strikes against people in Pakistan." Someone at the helm of affairs should have told the Americans that "enough was enough!". Both "the political and military elite were responsible for this lapse." There was never any trust between the two intelligence organizations i.e. the ISI and the CIA. There was only an understanding due to overlapping interests. This had also been the basis of their cooperation during the Soviet occupation of Afghanistan. Working relations between them were always "marred by an inconsistent, transactional and reactive paradigm." Cooperation between them had reached "its lowest ebb."

467- Some of the factors that had undermined cooperation between the CIA and ISI included lack of US cooperation in sharing information, their allegations that the ISI was involved in hiding HVTs and maintaining links with militant groups like the Haqqani Network and Lashkar-e-Taiba (LeT), etc, the presence of a large number of CIA operators in Pakistan, allegations of harassment of these operators by Pakistani agencies, unilateral drone strikes in Pakistan's Tribal Agencies, excessive demands for visas on the basis of vague explanations and incomplete information provided about the applicants, the naming of the DG ISI in a civil lawsuit in the US, etc.

468- If Pakistan was to be protected, according to the DG, the police had to be strengthened and the IB had to be de-politicized. Most of the officers posted in the IB were from the police and the vast majority of them "did not know the basics of intelligence." The same was the case with the FIA. Unlike the IB, the ISI had not been politicized. But "it needed to be strengthened politically, legally and financially." In a given situation the ISI at present arrested people for which it had legally no authority and this was a major problem it faced.

469- With regard to sharing information with the police, the concern was one of the need for confidentiality. There were too many instances where information shared with the police had been compromised. Accordingly, the ISI preferred to act alone. It was important that the Internal Security and Counter Terrorism Wings of the ISI be granted powers of arrest. Similarly the Police needed to be restructured and made a professional force based on merit.

470- The DG noted that the ISI did not have automatic analysis capability for data processing. It was done manually. This was because the main focus of the ISI had been on threat analysis rather than data processing. However, in view of its experience with the telephone numbers provided by the CIA, this capacity was being upgraded.

471- With regard to the presence of OBL in Pakistan, after a while the ISI began to believe he had probably died. There were no indications of his presence or existence. There were reports indicating his health was declining. After a certain time, he never came up in CIA-ISI discussions. Nor did he remain a current issue of discussions in meetings between the intelligence chiefs. Their discussions, instead, focused on current developments. The main focus of the ISI was the internal security of Pakistan, not OBL.

472- One of the reasons why the Americans did not share information with Pakistan regarding OBL's location in Pakistan after they had located him, may have been the realization that Pakistan would have been "very favorably placed internationally" had it apprehended OBL. Unfortunately, "this was a game we all missed because of bad work by all of us, including the police, local government institutions, etc." This was a "systemic failure which represented the biggest threat faced by Pakistan."The national security of Pakistan was "never as critically challenged as it was today". There was "a lack of good governance and the system was not delivering."

473- Asked in what way the events of May 2 were related to systemic malfunctioning or dysfunction, the DG referred to the violation of bye-laws, fake identity cards, and the whole range of errors and negligence, etc. These were all manifestations of dysfunction. The Commission asked whether these failures were indicative of "systematic connivance or systemic failure." The DG said it was an intelligence failure but neither facilitation nor connivance was involved.

474- Regarding Dr. Shakeel Afridi and American pressure on the government for his release, the DG said the fact was that he was "a hero for the Americans and a traitor for us." The Americans had asked for his release and were trying to achieve their objective through friendly countries like Saudi Arabia. This pressure was brought to bear on the political government and the ISI. It had to be fended off.

475- With regard to NGOs, the DG said the CIA had a history of using them. Subsequently, the US banned the use of NGOs for clandestine activities such as the kind the CIA pursued. There were over 1300 NGOs working in Pakistan and there was clear evidence, despite the US ban,

that the CIA still used many NGOs, including Save the Children, for its activities. The CIA was extremely worried that its nexus with NGOs might be publicly exposed. In fact the Director CIA had personally requested the DG ISI to not expose Save the Children'srole in its activities in Pakistan. The CIA knew it could not afford to forego intelligence sharing with the ISI.

476- According to the DG, Save the Children had a history of involvement with the CIA. In fact, of the NGOs working in Pakistan, very few were totally "clean" i.e. free of the taint of foreign intelligence penetration. It was not possible to ban all of them given the role they played in Pakistan's economic and social planning and development. Moreover, it was certainly not possible for the ISI to keep track of all of them. That would be way beyond the resources or mandate of the ISI, Only the Police could undertake their monitoring and surveillance. But unfortunately the police had been "mishandled and misused."

477- Regarding any understanding between the US and Pakistan on the American drone attacks, the DG said there were no written agreements. There was a political understanding. The Americans had been asked to stop such attacks on a number of occasions as they resulted in civilian casualties. However, it was easier to say no to them in the beginning, but "now it was more difficult" to do so. Admittedly the drone attacks had their utility, but they represented a breach of national sovereignty. They were "legal according to American law but illegal according to international law."

478- Regarding the possible whereabouts of Mullah Omar, Ayman-al-Zawahiri and the Haqqani network, the DG said the Americans knew very well that Mullah Omar and Ayman-al-Zawahiri were "not in Pakistan." Even so, they continued to press Pakistan on this account. This was part

of their "psychological warfare." Nevertheless, the possibility that Mullah Omar and Ayman-al-Zawahiri were somewhere in Pakistan could not be entirely ruled out.

479- The "main agenda of the CIA was to have the ISI declared a terrorist organization." The lawsuit against the DG ISI in an American court was part of this campaign. All the State Department needed to do was to certify that the ISI was an organization of the State of Pakistan for the case to be dropped. But it had not done so. Unfortunately, Pakistani media persons were also involved in this campaign against the ISI. Many of them were "heavily bribed with money, women and alcohol."

480- Regarding the so-called Haqqani network, the DG ISI said it had been created by both the CIA and the ISI against the Soviet occupation of Afghanistan. Jalaluddin Haqqani had, in fact, been invited to the White House by President Reagan. The fighting core of the Haqqani group in Afghanistan had been placed on the United Nations sanctions list but its non-combat members had not been placed on the list. The ISI was in contact only with these non-sanctioned members of the Haqqani group who were responsible for administrative and other matters. The UK, Italy and some other countries were also in touch with them.

481- As for the concern with the issuing of visas to American personnel to come to Pakistan, the DG said they had demanded an excessive number of visas but were not ready to provide details of their assignments in Pakistan. The ISI was of the view that if the purpose of their coming to Pakistan was consistent with the interests of the country, there was no good reason for the Americans not to disclose all the required information. If the US refused to provide complete information it could only mean that the visas were requested for reasons that were not consistent with the security of Pakistan. The US called this attitude "harassment." No one in Pakistan

seemed to know the exact number of Americans and other foreigners in the country. Unfortunately, Pakistani officials allowed them entry into Pakistan. If the ISI objected to a visa application made to one of Pakistan's missions abroad they would get it from another Pakistani mission. In fact when a well known anti-Pakistan journalist was refused a visa she sent a message to the ISI that she would get her visa. And she did.

482- Unfortunately, the ISI was not getting the required support from the Ministries of Interior and Foreign Affairs, as well as other government departments and the media to contain the influx of Americans. Those CIA personnel who were known to be in Pakistan were being monitored, but both the government and society of Pakistan needed to play their respective roles if this issue was not to be brought under control. When CIA personnel were infiltrated under various disguises such as members of NGOs, assistance workers, etc it was much more difficult to identify them.

483- The Commission noted that a succession of national setbacks and humiliations in 2011 alone raised the question of elite complacency and a refusal to draw any inconvenient lessons from past experience. The DG said this was a result of lack of capacity, inadequate knowledge and the wrong attitude. For example, no one, including the Defence Minister, had read the basic documents concerning defence policy. There was simply no culture of reading among the political leadership. Besides, "the thinking process was also non-existent." Accordingly, it was unable to formulate any policy.

484- Interrogations of detainees after May 2 had not indicated the existence of any support network for OBL within the military and intelligence establishment. There was also no significant influence of Jihadi organizations among the ranks of the military.

485- The Commission observed that the political leadership and media talked incessantly about Pakistan's sovereignty having been violated, but the question was whether the message had been effectively conveyed to the Americans. The people needed to be properly informed of such matters. The DG said the Americans were perfectly aware of their "zero rating" in Pakistan and had been asked to "clarify whether they wanted Pakistan as a respected ally or as a subservient tool". But the problem was the Americans were getting different signals from different quarters.Many from these quarters did not have the courage to tell them enough was enough. As a result, American arrogance knew no limits in its dealings with Pakistan. Pakistan should be aware that the US could not afford to lose its support and, accordingly, the Americans should be made to realize their limits.

486- Regarding discussions about placing the ISI under civilian control, the DG thought this was not a good idea. Placing the ISI under the Ministry of Interior would be disastrous. The ISI had no relationship with that Ministry and it reported to the President and the Prime Minister. It did share information on a demand basis but had never received a demand from the Ministry of Defence. The Prime Minister had once asked for an update on the security situation and the DG went only once to brief him. He was never summoned again to give a briefing. However, the COAS regularly met with the President and the Prime Minister. According to the DG, the ISI was "no longer involved in the political affairs of the country."

487- The Commission sought answers to a number of further questions from the DG ISI. They included the results of the interrogation of officers such as Major Amir Aziz of the Pakistan Army Medical Corps, Col Shahid Bashir, a former base commander of the Shamsi Airbase, Squadron Leader Nadeem Ahmad Shah, Mechanical Engineer, Awais Ali Khan, etc. The Commission referred to articles in the international media and asked whether people like

Brigadier Ali Khan who was also arrested on June 15, 2011 were on the CIA payroll. A week after the Brigadier's arrest the New York Times reported the arrest of 5 people, including a Major, who were suspected of working for the CIA and who fed information to the CIA before the raid. Was a CIA spy network uncovered or its existence established that led to the raid on Abbottabad? The Commission asked for transcripts of the interrogations to be made available.

488- The Commission asked for a report on how the utility bills of the OBL Compound were paid and whether the accounts of Ibrahim and Abrar were vetted. Once again the Commission reiterated how such a large Compound with strange characteristics like no TV or telephone connections, very high walls, its expanding size, no visitors or vehicles coming and going, no rubbish placed outside for collection, etc could fail to arouse the curiosity of neighbours and officials responsible for security and law and order in a military cantonment area.

489- The Commission noted that western intelligence and media analyses indicated that OBL was much more likely to be in Pakistan than in Afghanistan and most experts seemed to believe that he would more likely be in a populated area than in an isolated area where his presence and movements could leave more visible signatures and that, under the circumstances, a static location would have advantages over constantly shifting locations which would require greater support and involve greater risk. Were these surmises never considered and followed up with systematic investigation?

490- The DG ISI met for a third time with the Commission on January 18, 2012. With regard to Major Amir Aziz, he said the ISI had not found him worth investigating. The MI, however, investigated him and submitted its report to the Adjutant General who was satisfied that he could

not be connected to the US raid on Abbottabad. As a result, the ISI did not investigate Major Amir Aziz.

491- With regard to Brigadier Ali Khan who had become disillusioned with the state of affairs in Pakistan, developed extremist ideological views and had contacts with the Hizb-ul-Tahrir, the DG said he was arrested and interrogated by the MI but his case was not taken seriously because "such things continue to happen."The MI did not see him involved with Al-Qaeda or other extremist groups other than the Hizb-ul-Tahreer. He is, however, still under arrest.

492- Then there was the case of Lt. Col. Saeed Iqbal who was a more suspicious character. He had served as CO of 408 MI Battalion and also served in the ISI. He was retired on disciplinary grounds and went into the security business and set up his own security company. He apparently did well financially and was regarded as being involved in supplying the CIA with trade intelligence. He disappeared just after the operation on May 3 along with his family. He tried to sell his property in Pakistan. His profile matched that of a likely CIA recruit far more than that of Brigadier Ali who was politically alienated. Saeed Iqbal was a trained intelligence operator. He was monitored but nothing much turned up.

493- The DG said that reports about a previous raid on the OBL Compound in 2005 were erroneous. A raid had actually taken on a residence two or three kilometers away, where the HVT Abu Faraj-al-Libbi was staying. He managed to escape at the time but was later arrested in FATA.

494- The DG also confirmed that OBL had stayed in the Compound in Abbottabad for the whole period from August 2005 till his death on May 2, 2011 – almost 6 years. US sources, however, are divided on the extent to which the OBL Compound was a command center. The ISI analysis

of material retrieved from the OBL Compound does suggest OBL was to a degree actively planning Al-Qaeda's future operations. This is what exposed his couriers to electronic interception. Moreover, currently the country was crawling with foreigners all over the place acting as the eyes and ears of foreign intelligence services.

495- As for the possibility of Ayman-al-Zawahiri's presence in Pakistan, Al-Qaeda had directed its operators to move towards towns and cities away from isolated places. It was possible for him to be somewhere in Pakistan. The ISI was working hard to locate him. However, the US was continuing to withhold vital information from the ISI and could be planning another assault. The May 2 attack was motivated by domestic political considerations, and another attack could be similarly motivated in an election year in the US. This was militarily possible because of the technological differential between the militaries of the two countries i.e. military asymmetry.

496- The DG said the reality for Pakistan was not defined by the might of the US. It was defined by the fact that "we are a very weak state and also a very scared state. We will take anything and not respond. It all boils down to corrupt and low grade governance." The Commission was "faced with a problem not so much of specific individual or institutional failure, but with a problem of collective and systemic failure." There was "apathy at every level; in every sector of national life." Pakistani society was "deeply penetrated." The media was "practically bought up" and nearly "every one of our elite was purchasable." A US intelligence officer had the gall to say "you are so cheap...we can buy you with a visa, with a visit to the US, even with a dinner... we can buy anyone." Accordingly, "we are a failing state even if we are not yet a failed state."

497- The DG said the ISI knew that HVTs had been caught in towns and cities. In Karachi there were "no go" areas where the ISI knew foreign miscreants lived. But the police dared not venture

there. This situation was increasingly becoming true of Lahore and other cities. In Lahore the police protected those who attacked the Qadianis last year (2010)and even directed them to the hospital where the wounded were being treated. The provincial government had been informed of the situation but it took no heed of the advice and information provided by the ISI. No guards were assigned to the hospital as venal political influence intervened everywhere.

498- The charge of systemic dysfunction was not intended to exclude the ISI. It was also part of the problem as it was also a product of the same environment. However, "targeting or vilifying the military, security and intelligence establishment would be unfair." The Prime Minister (Yousaf Raza Gillani) in rhetorically asking who had given a six year visa to OBL and his references to "a state within a state" had been "very unfair." The anger in the military over such unfair statements could not be described.

499- The DG also said that the role and performance of the Ministry of Interior shouldbe assessed. There was a need to legislate a proper visa regime, a mechanism to control and monitor foreigners in the country and rules and oversight mechanisms with regard to the hiring of premises by foreign nationals. No credible state could afford to lose control over the discharge of such basic responsibilities.

Commission's observation

500- While the DG ISI graciously conceded that many decent people have been harmed by the errors of ISI, he also made the ominous comment that those who still feared the ISI were those people "who should fear the ISI". This did not indicate that the ISI had changed its "mindset, culture and methodology" as the DG claimed. The national outcry from the Pakistani political intelligentsia was derided "as outdoing foreign adversaries in their criticism of the ISI". The ISI

admitted the Government of Pakistan had never asked the ISI to deal with Counter terrorism but it had nevertheless done so because of the dysfunctioning of the system and ineffectiveness of other state organs. This of course was illegitimate because constitutionally only the political leadership can decide what the ISI can or cannot do. However, the DG was quite right in referring to the fact that the political process in Pakistan was often suspended by military takeovers as a result of which the Army COAS became the political process himself. For this reason, the Commission cannot accept the DG's assertion that the ISI was no more to blame than other civilian agencies for the failure to locate OBL over almost a decade. The DG was again correct in stressing the role played by the irresponsibility of the political leadership in the circumstances leading to the May 2, 2011 incident.

501- The DG referred to the record of intelligence sharing and cooperation regarding OBL between the CIA and the ISI. This included the capture of significant number of Al-.Qaeda's HVTs. However, according to some international experts on terrorism, much of the cooperation from the ISI was unintended. In his book, "Manhunt" Peter Bergen while conceding that some of the intelligence collected by the CIA that led it to the OBL compound was based on ISI cooperation, he also said that the ISI did not realise it was helping the CIA to find OBL. An example of this was the telephone number that the CIA had asked to monitor which the ISI apparently did not realize belonged to the support group of OBL. The reason for this duplicity by the CIA was because, rightly or wrongly, it did not fully trust the ISI to fully cooperate in the hunt for OBL. one reason why the CIA was able to get away with this kind of duplicity was because the ISI did not properly monitor the phone numbers that were given to it by the CIA. The DG admits this lapse.

502- The DG made the telling point that there were questions being asked about the role of political leadership and the government especially related to national counter terrorism policy, the establishment of an effective NACTA, the performance of the Ministry of Interior, the movement and control of foreigners in Pakistan and their hiring and renting of properties. He made the point that these lapses also contributed to the failure to detect OBL in Pakistan. This is true enough. But the role of the civilian and military leadership including the vast role played by the ISI were primarily responsible for the systemic failures that contributed to the May 2 incident, and other such incidents both before and after it.

503- The DG acknowledged that the ISI currently performed a number of functions for which it had no legal authority and accordingly could not defend its actions legally. He also admitted that most of the HVTs captured before 2005 were quickly handed over to the US. This of course meant that Pakistan was not able to extract sufficient information from them before they were handed over to the Americans. Similarly, with regard to the legal protection for the ISI actions, the Commission is of the view that the ISI should stay within the law rather than ask for the expansion of the law to legalise its actions. An intelligence agency does have to operate with a considerable degree of secrecy for it to be effective. But in any democracy, an intelligence organisation must be accountable and answerable to political oversight.

504- The DG admitted that under former President Gen. Musharaf, the government had too readily given into American demands after the terrorist attacks of 9/11. While it is reassuring that the ISI and the military leadership may be ready to criticize the decisions of the military and intelligence leadership of a decade ago, the fact is that this situation continues today even under the dispensation of an elected civilian government. It will not be of much comfort to know that a decade from now, the military leadership of the future may well be critical of today's situation.

505- The DG did not think that placing the ISI under civilian control was a very good idea, particularly under the ministry of Interior. He claimed that the ISI had no relation with that Ministry. It was amazing to learn that the Ministry of Defence had never demanded any information from the ISI, and even more amazing that the Prime minister, who was the chief executive and his supposed boss, had only met him once. While the reluctance of the ISI to accept a civilian control and oversight is unacceptable, the lack of any interest of the civilian political leadership to exercise such control and oversight is even more deplorable. With regard to accusations made by senior US officials that OBL was somewhere in Pakistan and was being protected by elements within the intelligence community, the ISI certainly asked for specific information underline such accusation to which it did not receive a reply. But it does not appear to be the case that it stepped up its efforts to satisfy itself that there was no basis for such accusations. When US Secretary of State, Hillary Clinton made her accusation in 2010, the CIA either had confirmed or was about to confirm to the US president that it had more or less found the residence of OBL in Abbottabad. The fact that the CIA or the US government should have shared this information with Pakistan is one thing, but the fact that instead of merely challenging the accuracy of this statement, we should have assumed that they may be based on facts and accordingly, intensified our efforts is another.

Chapter 23 Inputs provided by former NSA Major General (retd) Mahmood Durrani

General Mehmud Durrani

506- General Mahmud Durrani, former Ambassador to the US and former National Security Advisor to the Prime Minister, informed the Commission that his appointments had given him good access to the top leaderships of both Pakistan and the US. He said that the level of mistrust between the two countries was high, and continued to be so, despite many positive aspects in the relationship.

507- Regarding drone attacks, General Durrani said that to the best of his knowledge, the program began collaboratively, but during 2007 the US adopted a unilateral approach. Without supporting the US he expressed his surprise at the complaints of the Pakistani leadership regarding the US incursion in Abbottabad, since President Obama had repeatedly asserted his intention to go after HVTs in Pakistan.

508- He told the Commission that there were many reports about OBL's presence in Pakistan in the US media but they were all speculative. The Pakistani leadership believed OBL to be somewhere near the Pakistan-Afghanistan border. Thus, the intelligence agencies and the military were taken by surprise by the US operation in Abbottabad.

509- Asked whether the Pakistani military could prevent another such operation given its present capability, the General answered in the negative. He said the Pakistani military was designed and developed to face a regional threat – specifically from India. It was now being re-equipped to fight a low intensity internal war as well. But it is neither trained nor equipped to fight a superpower. He said that given the consequences of shooting down drones, there was a need to understand that if such military threats could not be deterred by military responses, there was a need to use diplomacy instead.

510- Regarding national security, General Durrani said that the presence of HVTs like OBL without the knowledge of security and intelligence agencies, and the military operation by a foreign power deep in Pakistani territory, both point to an intelligence failure. Many in Pakistan and around the world believe that some elements of the state apparatus were aware of the presence of OBL. The dysfunctional civil-military intelligence network in the country has been discredited as a consequence.

511- The General pointed out that ideally the military should have found out about the US operation in Abbottabad given the time it took for the helicopters to reach the incident site. But it was very possible for a world class military to evade radar and ground detection by using superior technology. Moreover, even if the raid had been detected, it had to be asked what Pakistan could have done.

512- General Durrani recommended the reforming of the intelligence network of Pakistan in order to avoid being caught flat footed again, and in order to fight effectively against terrorism. Realistic analyses of security threats from internal and external challenges needed to be carried out. Intelligence agencies such as the ISI and IB need to be reformed, and the IB needs to be brought at par with ISI. Also, all intelligence assets need to be integrated into an efficient network if Pakistan is to effectively neutralize security threats.

Chapter 24 Hussain Haqqani and the visa regime

Mr. Hussain Haqqani

513- Mr. Hussain Haqqani, the former Ambassador of Pakistan in the US appeared before the Commission on December 20, 2011 and handed over his written statement which is appended to the report.[13]

514- Mr. Hussain Haqqani was asked various questions by the Commission regarding the US operation in Abbottabad, his trip to the UK at the time, his meetings with officials including the Chief of Defence Staff in the UK, and the issuance of visas to Americans without the completion of necessary formalities. Haqqani maintained that he had been as critical as any Pakistani of the US raid even if he also advocated the necessity of mutually beneficial and satisfactory bilateral cooperation with the US. He had obtained the clearance of the Foreign Office to come to Pakistan and on reaching London en route he learned of the May 2 incident and immediately returned to Washington instead of proceeding to Pakistan. He had separately visited London on a private invitation to give a dinner talk where he had met the British Chief of Defence Staff.

515- As for the issuance of visas, he had abided strictly by the rules and the directives to expedite the clearance of pending visa applications, which he did strictly in accordance with rules and instructions from the Ministry of Interior and the Foreign Office. He cited figures in an effort to show that there was in fact no extraordinary spike in the rate of visas issued other than the clearing of a backlog that had accumulated over several months as a result of a tightening of the issue of visas by the government of Pakistan which led to protests from the US.

516- It was widely reported that Ambassador Haqqani had abused his authority as Ambassador in order to issue a large number of visas to US officials without proper security clearance. This enabled the CIA to develop a major spy network inside Pakistan comprising US personnel, US

[13] For details, please see Annex J.

nationals of Pakistani origin and Pakistani nationals. This, in turn, facilitated the US search for OBL and its raid on Abbottabad.

Commission's Observations

517- In order to ascertain the facts, the Commission carried out a deliberate exercise by examining visa issue details from Pakistan's Embassy in Washington, and also interviewing ex-Ambassador Mr. Haqqani. It was revealed that prior to July 14, 2010, visa application of officials and diplomats in any part of the world were required to go through security clearance procedures by the Ministry of Interior (through ISI and IB). Due to pressure from the US Government, a waiver was granted only to the Embassy in Washington, wherein the Ambassador could issue visas up to one year without security clearances[14] from any of the GoP agencies. No such concession was made by the US for Pakistani officials and diplomats on a reciprocal basis which was an inexcusable violation of diplomatic relations between sovereign countries. Accordingly, a quantum jump was noticed in the issuance of visas, from a monthly average of 276 in the first half of 2010 to 414 in the second half of that year. Likewise, the visas issued to US officials/diplomats, when calculated on a six-monthly basis, jumped from an average of 1698 over the 2008-2010 period to 2487 in the July to December 2010 period. The Defence Committee of the Cabinet (DCC) in its meeting of December 3, 2010, noticed this unchecked movement of foreigners and asked the Foreign Secretary to obtain the comments of the Ambassador in the US. In his reply of January 18, 2011, the Ambassador contested the stated figures but provided factually inaccurate figures in support of his contention. When the Commission invited the Ambassador and asked him about the details, once again he presented

[14] The letters sent to the Embassy from the PM Secretariat on July 14, 2010 and from the MoI on July 16, 2010 are attached as Annex K.

incorrect numbers stating that a total of 3555 official/diplomatic visas were issued in 2010 as compared to 3784 in 2009 which indicated a downward trend. The Embassy records obtained by the Commission shared that in 2009, 3242 visas were issued (not 3784 as stated by the Ambassador) and in 2010, 4422 visas were issued, (not 3555.) this was significant upward trend. Secondly, Mr. Haqqani had maintained that there were 515 visas issued in July 2010, which were all cleared by the MoI, whereas the actual position was that 882 visas were issued, out of which only 285 visas were cleared by the MoI. It was also revealed that in at least four cases in the year 2010, prior to the July 14 discretion, visas were issued to US officials/diplomats much before their security clearances were received. Moreover, while granting discretionary powers to the Ambassador, the PM Office has clearly laid down that in all such cases the PM Office would be kept informed. Except for once in July 2010, this directive requirement was not observed. The contention of the Ambassador that the large number of visas issued in the month of July 2010 was because of a backlog of pending applications that had accumulated as a result of non receipt of clearances from Islamabad between April and June 2010, was also not backed by the facts. Embassy visa records showed that during this period the number of visas issued corresponded to the normal monthly rate of visas issued. Accordingly, the Commission came to the view that Ambassador Haqqani issued visas without due diligence. How far this lapse contributed to the entry of Americans who lied about their true background and purpose cannot be established by the Commission. But no one was aware of the sensitivity of the issues between the Ambassador.

518- According to the Foreigners Order 1951, only three kinds of visas could be issued i.e. Single Journey, Transit, and Multiple. But various other categories were evolved by the Embassy. He was also asked about visas issued to NGO personnel without prior clearance from the Ministry of Interior. Similarly visas to journalists were issued without prior clearance from

the Ministry. This was in violation of the provision enumerated in Article 21, read with Article 20-C of the Visa Manual. Mr. Haqqani did not provide satisfactory answers except to say that discretionary powers were conferred upon him by the Prime Minister of Pakistan.

519- The Commission has examined the discretion exercised by Mr. Hussain Haqqani in issuance of numerous visas without completion of necessary formalities. This mainly revolves around the letter issued by Prime Minister's Secretariat on July 14, 2010 by the Principal Secretary to the Prime Minister.

520- A careful examination of the letter reveals that it is not in consonance with the provisions in the Foreigners Act 1946, Foreigners Order 1951, Article 21 read with Article 20-C of Visa Manual, in addition to various Sections such as 92, 93, 94, 100, 101, 125, 126, 131, 134. In the Commission's view, no such relaxation could have been granted as corresponding amendments were never made in the above mentioned enactments. Such unbridled discretion conferred upon Mr. Hussain Haqqani, the main responsibility for which lay with those who conferred it upon him, possibly resulted in an alarming increase in the presence of CIA agents in Pakistan, who established foreign spy networks in Pakistan for the facilitation of the Abbottabad Operation.

521- It also needs to be examined as to whether proper advice was tendered to the Prime Minister before issuance of this letter by the Principal Secretary who was duty bound to see the relevant provisions of law concerning issuance of visas, prevalent policy, visa manual and role of different ministries. Even the condition put forward in the said letter was never met by Mr. Haqqani, and the PM Secretariat failed to address the situation.

522- Mr. Haqqani is answerable for his role. But the primary responsibility for aiding and abetting the establishment of a nationwide CIA network in Pakistan whose purpose was to

subvert the sovereign independence of the country and prepare the ground for the outrage of May 2, 2011 lay with Mr. Haqqani's principals. Mr. Haqqani directly reported to them and relied on direct instructions from them, bypassing his proper reporting channel which was to the Ministry of Foreign Affairs. The political leadership was grossly irresponsible to deliberately side-line its own Foreign Office and Foreign Minister on such a delicate security issue.



Chapter 25 **Federal Secretaries and Ministers**

Secretary Law

523- The Secretary Law was asked for his view about the legal status of the covert US operation in Abbottabad, which involved the killing of Pakistani nationals, as well as violation of

Pakistan's air space and territory with reference to Pakistani law, international law and the UN Charter. The Law Secretary did not offer any view since the Law Ministry according to him was never involved in charting out a national response to the Abbottabad Operation. The government apparently never asked the Law Ministry to give its legal input.

Commission's Observations

524- The government apparently never asked the Law Ministry to give its legal input with regard to the US assault against Pakistan. By contrast, the US government's legal officials were constantly spouting legal nonsense about the legality of its assassination mission. The Commission is of the view that this alone spoke volumes about the state of governance in Pakistan. While the policy response of the government constituted a violation of its constitutional obligations to defend the country's sovereignty, its legal response was nonexistent. The country was made to look ridiculous by the government before its own people.

Secretary Information

525- Secretary Information mentioned that the Ministry of Information acted as a service provider to the Government and therefore got necessary guidance from the Government to carry out a media campaign. According to the Secretary, except for a statement by the Minister of Information, which actually weakened the stance of the GoP, the Ministry did not play any role.

526- The Secretary Information said he learned of the Abbottabad operation after an early morning telephone call from the Press Minister Imran Gardezi in the Embassy of Pakistan in Washington who sought guidelines on the incident. The matter was discussed with the Federal Minister for Information and Broadcasting and on the same day a meeting was held in the Prime

Minister's Secretariat which was also attended by the Minister and Secretary Information & Broadcasting. It was decided that a statement would be issued by the Foreign Office.

527- The Secretary further stated that the Abbottabad incident fell squarely within the jurisdictional domain of MoFA and ISPR. He admitted that no law, policy, rule or regulation was available to provide procedures to be followed by MoFA, ISPR and the Ministry of Information.

528- Regarding the early statement of Mrs. Firdous Ashiq Awan, Federal Minister for Information and Broadcasting on May 2, that the US action was in accordance with a UN Resolution, the Secretary said no one in the Ministry was contacted to assist the Minister with regard to her statement. The Minister should not have given such a statement and should be careful when making such statements on issues that have national and international repercussions.

529- The Secretary made it clear that no one briefed or consulted the Ministry of Information and Broadcasting about the incident, and according to his knowledge, even the Minister was not consulted. There remains no proper procedure for sharing information and coordinating between the Ministry, the ISPR, and MoFA.

Commission's Observation

530- Though a media coordination committee exists, in which the ISPR, ISI media representatives, MoI and MoFA attend the meetings, in this particular case no such meeting was held to agree on an integrated media strategy in response to the US raid. Similarly, the Pakistan missions abroad were not given any directions or guidance by the Ministry of Information to help them respond to the negative media projections emanating from world capitals about OBL's presence in Pakistan.

Secretary of Defence

531- The Secretary Defence said OBL's undetected entry, movements, and allegedly lengthy stay as well as his logistical support were key questions that were being investigated by Pakistani intelligence agencies. The possibility of clandestine local support for the American operation was also being investigated. The Secretary told the Commission that the CIA's undercover officials had been operating in Pakistan since a long time. After the 9/11 terrorist attacks in the US, Pakistan had agreed to share intelligence in the war on terror. The CIA operated in diverse ways including cultivation of human resources, using contractors, NGOs, multinational companies, USAID programs, intelligence personnel in the guise of diplomats, etc. The CIA's human resources were supplemented by technical intelligence.

532- There was no formal written agreement between Pakistan and the US in the aftermath of September 11, 2001. The Government of Pakistan just took a decision to support and cooperate with the US in the War on Terror. In 2004, Pakistan became a Non-NATO Ally. "An unwritten template for intelligence sharing" was devised with the approval of the Government of Pakistan. The whereabouts of OBL were not known at the time. However, since 2002 the ISI had provided intelligence to the CIA which significantly assisted it in its eventual ability to identify and locate OBL. The Secretary noted that the US was obliged to share its intelligence with Pakistan but failed to do so.

533- After OBL's escape from Tora Bora he remained in hiding and "managed to deceive the intelligence agencies of the entire world." He protected his identity and location by adopting strict security measures, including low profile communication modalities and an invisible life style in an area not known for the presence of Al-Qaeda or Taliban.

534- With regard to the possibility of sympathizers and enablers in the armed forces, he noted that while incidents indicative of extremist sympathies among the personnel of the armed forces occurred from time to time, the Pakistan military had a policy of zero tolerance towards extremists among its ranks. It continuously purged the military of such elements and dealt with them firmly in accordance with service rules and regulations. Policy guidelines were regularly promulgated to keep service personnel apprised of the code of conduct and the consequences of actions in violation of it.

535- The Commission was also told that internal threats were the primary concern of the Ministry of Interior while external threats were the concern of the Defence Ministry. There were considerable inter-ministerial consultations to evolve comprehensive and realistic policies based on factual information. Similarly, inter-agency intelligence sharing was carried out as a matter of routine in accordance with operational requirements. In this regard, intelligence agencies were fairly autonomous and worked independently. Sharing of information on a "lateral basis" had to be specifically authorized for specific cases.

536- The Ministry of Defence issued a Defence Policy in 2004, which seemed outdated in the current security environment that Pakistan faced. The National Defence University had been tasked to formulate the new National Security Policy, which was supposed to be "the mother document for all policies." It will be finalized in consultation with all the relevant stakeholders, including the Parliamentary Committee on National Security. Simultaneously, work on a revised Defence Policy is already underway. He also pointed to the need of a thorough review of the existing Higher Defence Organization in Pakistan. The Joint Services Head Quarters needed to be strengthened and made more powerful in conducting the country's Defence Policy.

Minister of Defence

537- The Defence Minister described the May 2 incident as a very serious development. He said that Pakistan was under an obligation to do its best to locate and arrest OBL if he was in the country and had tried its best to do so. It had succeeded to an extent in providing some information leads to the US which led to the US success in locating and killing OBL. The Minister conceded that Pakistan could have done better and it did not come up to the expectations of the people. He admitted he was not completely in the picture and that what he was relating before the Commission was from what he had read in the files of the Ministry of Defence (MoD). He told the Commission that any detailed questions should be sent to him in writing and he would respond to them in writing. The Commission reminded the Minister that under the Rules of Business of 1973, the defence of Pakistan's frontiers fell within the domain of MoD and that the Ministry had ample powers to discharge its responsibilities.

538- Regarding what actions the Ministry had taken prior to the incident given its responsibility, the Minister said that that while it was a disgrace and a humiliation and an analysis would be made by the MoD. Meanwhile it would be inappropriate for him to give personal answers to questions about why the Ministry failed to discharge its responsibilities. When asked by the Commission for the reason of the trust deficit between the US and Pakistan, as a result of which the operation of May 2 was conducted on a unilateral basis, the Minister said it was beyond his knowledge and he could not answer the question.

539- When asked why the MoD had not considered the possibility of OBL being somewhere in the Hazara Division, which had been portrayed by sections of the foreign media as a safe haven for terrorists and Jihadi elements especially after the arrest of Umar Patek in Abbottabad, the

Minister said the Secretary of Defence should be asked to respond to this question. On being reminded that he was the key person involved and responsible for the policy of the MoD and not the Secretary, the Minister said that in reality information traveled up to the Secretary level, and the Minister himself was not kept in the loop all the time. The Secretary was the principal officer in the Ministry and files were normally moved up to his level only, after which they were returned to the Army. He said that it would take some time for the Rules of Business to be implemented in letter and spirit.

540- When asked whether there were any specific agreements between Pakistan and the US, or between ISI and CIA relating to cooperation in counterterrorism, the Minister replied that there were many but he did not recall any except for two written agreements which he had referred to in his statement. These related to, (i) the Basing, Deployment, Transit or Staging of ISAF/NATO forces in Afghanistan and their logistics support with the Islamic Republic of Pakistan, and, (ii) the Acquisition and Cross Servicing Agreement (ASCA-01) on January 26, 2002. When asked whether he was ever in the picture with regard to the signing of MoUs and agreements in the field of security cooperation, the Minister said the DCC was the relevant forum and all important decisions relating to security were taken there. Asked whether the MoD was performing the role of a Post Office as stated by the former Secretary of Defence, the Minister said he would not contradict the former Secretary but he did not think the MoD was just a Post Office. In the DCC, frank discussions were held, nothing was hidden, and necessary policy inputs were provided to the President and Prime Minister. When told that the former Secretary of Defence had informed the Commission that the MoD lacked the capacity to formulate a national security policy, which was why the responsibility was given to the National Defence University, the Minister commented that the statement by the Secretary was "interesting".

541- Asked if the Ministry did not fulfill its role in accordance with the Rules of Business, which other institution could do so, the Minister said he was unable to provide an answer to the Commission. He suggested he would only be able to do so in an in-camera meeting with the President of the Commission.

542- Regarding Cantonment Boards, the Minister acknowledged that Station Commanders of Cantonments were not authorized to perform the functions that they were supposed to and that Cantonment Boards should be elected. He did not answer the question whether his Ministry had taken any steps to ensure elected in Cantonment Boards. When asked why the defence of the western border of Pakistan had been neglected despite several changes in the security environment in recent years, and whether any initiative had been taken by the MoD, the Minister answered in the negative. He said that if the question was sent to him by the Commission, the Secretary would be asked to respond. The Commission again reminded the Minister that it was interested in his opinion and not a bureaucratic response from the Secretary but the Minister responded that the Secretary of Defence had vast powers and took all the decisions. Moreover, he noted that the MoD was regarded by the military as an administrative body of the armed forces.

543- Asked whether the government had ever considered the need for a National Security Policy during the past four years during which time he had been the Minister, he said the subject had not come up for discussion. Similarly, when asked whether any changes to the Joint Strategic Directive of 2007 and the Defence Policy of 2004 were considered in the light of changes that had occurred since they were approved, the Minister said that they were under continuous review but everything was based on budget allocations. He said that resource constraints had been a problem and resources for the armed forces development plans were not always available. With

reference to the need for a review of threat perceptions in light of current development, the Minister said such matters were not discussed in the MoD. They were discussed in the DCC which was chaired by the Prime Minister and attended by the Chiefs of the Armed Forces. The MoD, according to the Minister, was not concerned with operational matters. The Commission noted that besides the DCC there was also a Defence Council headed by the Minister himself. He was asked whether any meeting of the Council had been held in his tenure as Minister. He answered in the negative and suggested that the Commission should make recommendations in its report to activate the Council! (Since the Minister headed the Council himself, presumably he could convene it if he chose to.)

544- With reference to the deep penetration of Pakistan by CIA, the Minister was asked whether this matter had been discussed in the MoD, to which he replied in the negative. In response to a question as to when he came to learn of the May 2 incident, the Minister said he had learnt about it the next morning through the media, and his daughter who lived in New York had also informed him over the telephone. Regarding whether anyone from the MoD had informed him, he said someone had informed him in the morning but not in an official capacity. Asked how he had reacted to the fact that he had not been informed as early as possible, he reiterated that it would take time to follow the Rules of Business in entirety, which is why information about the Abbottabad incident was given to him belatedly by the MoD.

545- The Minister was again asked how he allowed himself to be bypassed in matters of national security since he was the head of the MoD and ranked in importance right after the Prime Minister. He replied that in Pakistan, things were different. National security was largely the military's domain. Information traveled from bottom to top and not from top to bottom. While

the Secretary Defence had an obligation to inform the Minister of important matters, this was not always done.

Commission's Observation

546- The Defence Minister's testimony was disarmingly candid. But it also revealed that he did not mind being treated by his subordinates as an irrelevance.He seemed to recognize that as an civilian he had no authority to meddle in defence and security affairs even though the Minister concerned.

Foreign Secretary

547- The former Foreign Secretary, who was serving in this capacity at the time of the May 2 operation, informed the Commission that the first official statement after the incident of May 2 had come from the Foreign Office spokesman between 10 am and 11 am that same day. Thereafter, a press conference had been held on May 5, and at a press briefing held by ISPR the Foreign Secretary also made a statement.

548- The Foreign Secretary said that initially the facts about the incident were not clear and hence the Foreign Office was more concerned about the international reaction and its focus on Pakistan. Questions were being raised as to how it was possible that Pakistan did not know about the extended presence of OBL on its soil. In this regard, the Foreign Secretary referred to a statement by the CIA Director Leon Panetta who said that Pakistani officials knew where OBL was hiding. India also saw the incident as a vindication of its own criticism of Pakistan. This was a very difficult time for the country. In addition to international criticism it had to deal with outraged public opinion at home.

549- The Foreign Secretary noted that in general the public perception was that the war on terror, led by the US, was not Pakistan's war. Regarding alleged written agreements with the US after 9/11, the Foreign Secretary said that after 9/11, there were no written agreements. Everything was done orally, and decisions were taken that no one now owned up to.

550- The Foreign Secretary was of the view that Pakistan should have a clearly defined policy of engagement with the US and a document that clearly stipulated what the two parties were required to do was needed. Moreover, it was necessary to put an end to unilateral actions by the US. With regard to drone attacks, the Foreign Secretary said that the government needed to take a decision on this issue in accordance with its core national interests. It needed to ensure that they are never violated. He denied Pakistan was following an appeasement policy towards the US. For example MoFA had fully supported the Iran-Pakistan-India (IPI) gas pipeline, and it also supported the import of 1000 MW of electricity from Iran for Gwadar. Moreover, the Foreign Office had launched strong protests whenever the US had violated Pakistan's sovereignty. When the US made a statement that Pakistan would pay a price for harboring militants, Pakistan took strong exception at the level of Prime Minister and President. He said that Pakistan was "not weak in conveying its viewpoint." The Americans had been told to vacate the Shamsi airbase. He asserted that actions were being taken to correct past errors including the issuing of visas to Americans, to control their movements in Pakistan, and to send back unwanted American personnel.

551- Responding to the question of the authority of Pakistani ambassadors in granting visas to foreigners, the Foreign Secretary said that the visa policy was the responsibility of the Ministry of Interior. Regarding the discretionary power to grant visas to Americans that was extended to the Pakistani Ambassador in Washington and whether this was done in accordance with any laid-

down procedures, the Foreign Secretary said that these concerns were not in the domain of MoFA. He noted that visas to Americans were often granted by Embassies of Pakistan in third countries. However, certain conditions were prescribed for the regulation of such visas and ambassadors had limited discretion in issuing visas. This discretion had to be exercised in national interest only. The Foreign Secretary said the visa policy needed to be streamlined and centralized, and visas should only be issued after obtaining clearance from security agencies. He was directed by the Commission to provide information regarding the issuance of visas to Americans in the past two years, and similar information was also to be provided by the MoI.

552- The Foreign Secretary was of the view that decisions taken by GoP immediately after the terrorist attacks of 9/11 were detrimental to the national interest, and the wrongs of the past needed to be rectified. He was not aware whether the decisions after 9/11 were made in consultation with the Foreign Office, or whether they were taken by the President alone.

553- Regarding the issue of a National Security Policy, the Foreign Secretary said that formulating such a policy had to be a comprehensive effort involving MoFA as well as other ministries such as Defence, Interior, and Finance etc. Addressing the widespread perception that the formulation of a National Security Policy was predominantly determined by the military establishment and that MoFA was only playing a supplementary role, the Foreign Secretary said that the foreign policy of Pakistan had the approval of the political leadership and the Foreign Office made recommendations for the consideration and the approval of the political leadership. He also said that most countries have a National Security Council in order to deliberate on security issues and NSP. Pakistan also needs such a council as well as a body to deliberate on economic issues as they are an essential part of NSP. He stated that the formulation of a policy, including NSP, was an interactive process, and that the advice of the Foreign Office did find a

place in the decision making process as MoFA was part of the government. In the past, he said, the Ministry's opinion was sometimes ignored, but this was no longer the case. The Foreign Secretary also believed that the ministry responsible for formulating a counter terrorism policy should be the MoI and agreed in principle with the idea of having a separate institution for counter terrorism that works in close consultation with other bodies including MoFA.

554- With regard to statements made by the US concerning the possibility of unilateral action against Pakistan if OBL was found, especially after reports suggested he had escaped to Pakistan after Tora Bora in Afghanistan was bombed by the US, the Foreign Secretary was asked whether any action was taken in response to these statements, and whether the Foreign Office had done enough to minimize the prospect of any unilateral American action. He said that he would have to check the records, but he believed that no specific meeting had been called to discuss American allegations and warnings of unilateral action. This was an issue that was largely considered to be in the domain of the intelligence agencies. Responding to a query, the Foreign Secretary said that no file was maintained with regard to OBL and his whereabouts. However, he noted that, in retrospect, there was a need to conduct an in-depth analysis of the situation and recommend remedial measures accordingly. He said that MoFA was generally kept in the loop by the intelligence community with regard to terrorists. Responding to a question by the Commission, the Foreign Secretary said that it was difficult to issue particular guidelines to be applied by the defence forces in case of a repetition of May 2. He noted however that there will be a strong response from the GoP if this happens.

555- The Ministry of Foreign Affairs had also made it absolutely clear to the US that unilateral actions were not acceptable. Regarding the fact that America's domestic laws allowed unilateral action if it considered them to be in national interest, the Foreign Secretary was asked whether

the issue had been discussed in any meeting with the Americans. He said that the Americans were informed of Pakistan's red lines and were aware that unilateral military action was not acceptable under any circumstance. He said he could not recollect whether any official statement regarding unilateral action had been made. In response to a question from the Commission, he also acknowledged that the subject of OBL's possible presence in Pakistan had never been discussed between Pakistan and the US. Regarding the reason for the decision by the US to opt for a unilateral action, the Foreign Secretary believed it was either due to a desire to take sole credit for the operation or due to a lack of trust of Pakistan.

556- The Foreign Secretary, when asked whether it was better to have decisions regarding agreements with the US ratified by the Parliament in order to avoid incidents such as May 2, responded that this needed to be done by the political leadership. He also said that he had frequently appeared before the Senate committees and briefed them on the foreign policy of Pakistan. He felt that the deliberations of these parliamentary committees were very important and helped the Foreign Office and the government in framing policies.

557- With regard to the immediate response of GoP following the May 2 incident, the Foreign Minister was asked whether the contrasting statements of the Minister for Information and Broadcasting and MoFA weakened Pakistan's position. He agreed that a candid statement after detailed consultation would have been more appropriate and thought it vital to have a forum for coordination and implementation.

Foreign Minister

558- Asked about the Kerry Lugar Bill (KLB) the Foreign Minister said she was not in her present office when the KLB was adopted. But she observed the contents of the Bill were similar

to other assistance agreements with the US. The KLB was adopted by the US Congress and not the Pakistani parliament. Pakistan had the option of accepting or rejecting it. The Minister said her predecessor had strongly supported the KLB in Parliament after meeting with its Congressional authors in the US and asking for the removal of certain conditions. Pakistan had accepted the legislation after some changes were made. Even so, it was true that some conditions that Pakistan objected to were retained. Pakistan's decision to accept the amended bill was a result of its assessment of the balance of its interests.

559- The Commission referred to provisions in the American legislation, permitting the US government to invest in private security contractors and operators, and to confidentially spend monies without the knowledge and supervision of the government of Pakistan. The Minister was asked to consider these observations and convey her comments to the Commission.

560- The Minister was also informed about the US Terrorism Reform and Prevention Act of 2004 which described Pakistan as a center for international terrorism. The Ronald W. Reagan National Defence Authorization Act for Fiscal Year 2005 and the Duncan Hunter National Defence Authorization Act for Fiscal Year 2009 allowed the use of private contractors and irregular forces in operations against terrorists on Pakistani territory. Asked why these provisions were not opposed by the government of Pakistan, the Minister said US laws were passed by the US Congress and Pakistan did not always comment on them. The Foreign Minister said the A. Q. Khan and Abbottabad incidents were very damaging and MoFA faced an extremely tough task in defending Pakistan against accusations while highlighting Pakistan's contributions in the global War against Terrorism. The international situation was not favorable for Pakistan. The presence of OBL in Pakistan had damaged Pakistan's image and credibility more than anything else, even if the US had not officially accused Pakistan of collaboration with the OBL network. The world

had not ruled out the possibility of connivance at some level in the security establishment. The Foreign Minister emphasized that Pakistan could not promote its national interests by opposing the whole world.

561- The Foreign Minister said Pakistan was an accident-prone country where every five years or so similar incidents to May 2 have tended to occur. There was no doubt that the presence of OBL in Pakistan for almost a decade was an embarrassing fact, as was the fact that his wives had received treatment in government hospitals. In general, according to the Foreign Minister, Pakistan had been much too preoccupied with what was happening in the world, without paying sufficient attention to what was happening at home. For example, she suggested not enough attention had been paid to the possibility of al-Zawahiri's presence in Pakistan, which could lead to another May 2-like incident! She said that Pakistan was in an unfavorable international environment. Policy errors had left Pakistan less respected in the international community.

562- The Foreign Minister observed that in the 1960s Pakistan was strong and internationally respected. Today the position had changed. The economy had declined and terrorists had found safe havens on Pakistan's territory. Pakistan needed to address these issues instead of remaining locked in hostility towards India. In the contemporary world, economic development was much more likely to be achieved on a regional basis. If on the contrary Pakistan used its limited resources for war preparations, it would simply burden its own economy.

563- Regarding the US insistence that Pakistan 'do more' and why was it repeating this mantra, the Foreign Minister said that unfortunately US-Pakistan relations had become hostage to counterterrorism cooperation as a result of the US perception that Pakistan was unable to eliminate terrorist structures from its soil. She noted that when the US asked Pakistan to do more,


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it generally referred to Pakistan's counterterrorism efforts in FATA, especially in the North Waziristan region. The GoP has informed the US several times of the complexity of the situation and the need to handle it in a manner that did not create more problems than it solved. Pakistan had informed the US that its decision to pull out of the region after the Soviet Union exited from Afghanistan had resulted in issues of US-sponsored Jihadi elements that were left behind. Pakistan was left in the lurch and to a large extent today's situation was a result of myopic decisions taken by the US. She said Pakistan had also informed the US on a number of occasions that its drone attacks had some advantages for it, but Pakistan also had to face the inevitable backlash in the shape of increased terrorist attacks on its civilians and its government installations.

564- With regard to the US Embassy hiring hundreds of houses in Islamabad and the suspicious activities of their US residents, the Minister said this was a matter of serious concern and that a comprehensive approach was required involving all relevant agencies and departments to address it and other such like issues. The problem was that the previous administration had been flexible with the sovereignty of the country vis-à-vis the US and once such flexibility was displayed, the ability of succeeding governments to reverse the situation is compromised.

565- With regard to drone attacks, the Minister disagreed with the widely held perception that the current government had allowed them provided they were carried out on the basis of joint consultations. She said this two-faced policy had actually been inherited from the previous government. In the government's view, they may help to win small battles, but over the long run, it was a policy that would not lead to success against terrorism. She said that a policy of unilateralism was not acceptable and would not work. Nevertheless, she conceded that Pakistan had to weigh its options realistically as it could not afford to go to war with the US by shooting

down its drones and closing the NATO supply route. There were 48 countries comprising the ISAF and Pakistan could not afford to offend all of them. Pakistan had accordingly to look for non-military options for solutions to this problem.

566- The Commission observed that while May 2 was a Black Day for Pakistan. The Foreign Minister was asked whether the significance and possible consequences were ever discussed in the Cabinet. She said such issues were not discussed in the Cabinet because of their sensitivity. They were usually discussed internally in the so-called "troika" (informal meeting of the President, Prime Minister and COAS) and the DCC, which were the proper forums. She agreed that May 2 was a Black Day for Pakistan and that being a non-NATO US ally, it was not anticipated that the Americans would take such unilateral action which had severely embarrassed the government. The American argument of a trust deficit did not provide any justification in view of Pakistan's enviable record in the War against Terrorism. She conceded the intelligence agencies should have kept a better watch on American and NATO activities on the western borders. While May 2 was not the result of any complicity by the GoP, the overall responsibility of the government and its agencies for its occurrence could not be denied. Similarly the question of incompetence of the concerned departments and agencies needed to be looked into. Asked whether apart from being an intelligence failure, May 2 also represented a policy failure, the Minister responded by saying that Pakistan was seen by the international community as a weak state. This impression needed to be dispelled by ensuring that its writ ran throughout its territory. Pakistan must ensure that it exercised lawful authority over all the territories it comprised. At present, the Taliban and other militants were operating from FATA beyond the control of the government. This situation would need to be addressed in order to prevent the US from acting unilaterally in future.

567- With regard to the role of the Foreign Office, the Minister noted that since independence, Pakistan had largely been governed by military governments which had weakened civilian and political institutions As a result, individuals became more important than institutions. This process needed to be reversed so that institutions instead of individuals became the basis for decision-making. She did not agree the military had denied space to other institutions in the formulation of foreign policy. With regard to the Foreign Office's first statement on May 2 after the Abbottabad operation, the Foreign Minister said it was issued after a meeting chaired by the President, which included the Prime Minister, COAS, DG ISI and the Foreign Minister. The meeting had been misrepresented by the media.

568- The Minister observed if there had been a Parliamentary government in Pakistan at the time of the 9/11 terrorist attacks, many policy errors which eventually led to May 2 would not have happened.

Secretary of Interior

569- Khawaja Muhammad Siddique Akbar, Secretary, Ministry of Interior appeared before this Commission on November 2, 2011. He had assumed the charge of Secretary on July 1, 2011 and thus, Mr. Qamar Zaman Chaudhry, the Secretary, Interior at the time of the May 2 incident, was called on the same day. The former Secretary was out of the country on the day of the incident.

570- The former Secretary of Interior said despite the 18th Constitutional amendment the Ministry of Interior still had 34 subjects. It was "overloaded." He commented "at times we pursue unattainable objectives and get ourselves involved in the domain of others."

571- The Secretary said there was no National Security Policy for the country but guidelines and instructions were regularly issued to provincial governments on a need to know basis.

572- He conceded that no report regarding the killing of OBL and violation of Pakistan's sovereignty has been prepared by the Ministry as no such request was received from any quarter. He added that no Cabinet or other meeting was convened by the Prime Minister concerning the Abbottabad incident to which either the Minister or Secretary Interior were invited. The Minister of Interior did however convene a meeting. The President convened a meeting on May 2.

573- The Commission noted that the Americans had reportedly rented 389 houses in Islamabad and asked if there was any policy in place with regard to such matters including the entry and exit of aliens. The Secretary said the visa policy was liberalized for trade and investment in 2000, and was again reviewed and updated in 2006 with the approval of the Prime Minister. In 2010, due to the large influx of foreigners, especially Americans, fresh instructions were issued with the approval of the Prime Minister. The scrutiny and verification of visa procedures were tightened. No visas were to be issued without verification by security authorities in Pakistan. He said that no exemption was made for the Pakistan embassy in Washington, nor was the Ambassador allowed special discretion in the issue of visas. However, in cases of emergency, the issue of visas could be expedited if the embassy representative of security agencies was satisfied.

574- Aliens were dealt with by the National Aliens Registration Authority (NARA). Clearance of visa applications by security agencies was made mandatory. It was brought to the Secretary's attention that in many cases blacklisted persons were able to secure visa for entry into Pakistan. He said this was only possible if they applied with different documents. With the introduction of the IBMS by NADRA at entry/exit points this should no longer be possible.

575- The Commission noted that the family of OBL appeared to have crossed the borders of Pakistan a number of times. The Secretary said the FIA was responsible for ensuring that illegal crossing of borders did not occur.

576- Under existing laws, counterterrorism was part of the mandate of federal security agencies like FIA, IB, etc. But which was the lead Ministry? The Secretary said the FIA only carried out analyses and it did not have the tools to function in the field. The National Counter Terrorism Agency (NACTA) worked under the Ministry of Interior, and to this extent the Ministry had a CT role. It coordinated with the provincial governments and federal agencies. In this sense, the Ministry of Interior was the lead Ministry for CT. But it had not been provided the ways and means to perform this role effectively. NACTA was like "a still born or aborted child." During the past three years, the head of NACTA had been changed five times. Moreover, necessary amendments to the Anti-Terrorism Act (ATA) had not been finalized.

577- The Secretary was asked whether OBL was ever mentioned in correspondence between the Ministry and Interpol. He said other terrorists were mentioned in such correspondence, but not OBL.

578- The Commission asked the Secretary whether he thought the IB should be placed under the Ministry of Interior. He said his Ministry "should have no objection." The ISI, Military Intelligence, and provincial governments did not share intelligence with the Ministry. It did not receive any classified information. Most of the information the Ministry received was "from the media." Accordingly, there was a need to do something about the proposal which would not only make the Ministry more effective, but would also provide other stakeholders access to vital information.

579- The Commission had been told by the ISI that civilian institutions do not ask it for vital information. The Secretary said that the ISI did not share or provide information to anyone. For example, no information about Dr. Shakeel Afridi was ever shared with the Ministry. To deal with terrorists it was essential to ensure the timely dissemination of information among security agencies and the Ministry of Interior.

580- With regard to NACTA, the Secretary said making it functional was not given priority because the current emphasis was on the ISI and MI as far as counter terrorism was concerned. He was asked whether the Ministry just accepted ground realities which limited its ability to discharge its functions with regard to issues that properly fell within its domain. He said in practice the Ministry had to take account of these ground realities.

581- The Secretary was asked whether the Ministry of Interior had taken any action when the US government officials publicly expressed the view that OBL was probably hiding in Pakistan. He replied in the negative. With regard to the statement of the former Afghan intelligence head, Amrullah Saleh alleging the presence of OBL in Mansehra, the Secretary said Saleh was anti-Pakistan. He was asked whether his Ministry, irrespective of his opinion about Saleh, bothered to check out his allegation. Once again he replied in the negative.

582- The Secretary said there was a dire need to re-organize the whole security apparatus. No institution should be allowed to overstep its domain. The relevant institutions should also be strengthened and made effective and accountable. In the US, after 9/11, the Homeland Security Department (HSD) was established and all 17 security agencies were required to report to it. They all sat under one roof and met three times a day. Something like this was required in Pakistan. But the experience of NACTA was just the opposite of what was required. Its law had

not yet been framed. It had only held a single meeting. There should be a provision in the law for intelligence sharing with the Ministry of Interior. The Ministry of Interior did not need to have an executive role but its coordinating role needed to be made effective.

Minister of Interior

583- With regard to the activities of American agents in Pakistan, the Minister informed the Commission that he had stated in a meeting of the Defence Committee of the Cabinet (DCC) that the Kerry Lugar Bill was just a "lollipop" under which financing would be used to obtain intelligence from Pakistan. Accordingly, he had insisted that certain restrictions needed to be imposed on American personnel in Pakistan. Regarding the issue of visas, the Minister of Interior noted that the Office of the Defence Representative (ODRP) was established as part of the US Embassy for better coordination between Pakistan and US authorities, and visas were issued separately to ODRP personnel. These visas were, however, misused in order to provide a cover to bring in a maximum number of CIA agents into Pakistan. These agents, in order to train Pakistanis, employed the Inter-Risk Security Agency, which was owned by Captain (retd.) Zaidi. The ISI arrested and interrogated Captain Zaidi, which also led to the arrest of a Section Officer in MoI who was being paid USD 17000 to issue visas to agents of the Inter-Risk Agency. A huge cache of weapons was also recovered from a residential garage of an IB inspector. When the license of the Inter-Risk Agency was cancelled, the US Ambassador directly approached the Minister to restore the license. The Minister refused to do so.

584- Regarding the issue of the Aviation Squadron of the Ministry of Interior being managed by Americans and its security being handled by DynCorp, the Minister noted that this had been the case until recently but now security was headed by a Pakistani working under directions of the

Ministry. With regard to the XE Security Company (formerly known as Black Water) which was established in Pakistan by Mr. Ray, who previously served as the Security Chief in the Netherlands Embassy, the Minister said that both XE and Inter-Risk Security Company were on the Ministry's watch-list. He said he would check the records in order to take appropriate action.

585- The Minister also outlined the issue of granting visas to Americans. Previously, visas to foreigners had been issued for one year, but the Minister had reduced the period to 3 months. According to the Minister there were 17 categories of visas under the existing policy. He was informed by the Commission that that while visa policy was the domain of the MoI; it was implemented by MoFA which had its own categories of visa applicants. The Minister said that the system was misused by Americans who used technical loopholes to bring their people in Pakistan in the guise of business or official work. The Minister noted that the visa system had not been computerized and he had now formed a committee to regularize the issue of ID Cards/Smart Cards. After May 2, the American visa demand had been reduced and the issuance of visas had been further restricted and restructured. Regarding the visa policy which was not followed with due regulation by Ambassador Hussain Haqqani, the Minister said that there was pressure from the US government, and apart from Secretary of State Hillary Clinton, a five-man Congress delegation had also visited Pakistan and raised this issue. While Pakistan refused to accommodate their demands it still had to deal with the US diplomatically. Accordingly, the Minister noted the procedure was modified and visas were issued on a "sketchy form" by the Embassy. He believed the issuance of these visas was linked to aid received from the US and the International Monetary Fund (IMF) and Pakistan was in too weak a position to resist their pressure since it was on the brink of bankruptcy. The EU had also joined hands with the US in pressuring Pakistan. Nevertheless, despite this pressure, he said that Ambassador Haqqani was

authorized to issue visas for 3 months only. Regarding the special discretionary powers given to Ambassador Haqqani on July 14, 2010 for issuing visas for up to one year to Americans, and it was incumbent upon the Ambassador to exercise those powers prudently and in the national interest. He noted that the agencies had not been as vigilant as they should have been.

586- With regard to reports of the American Embassy hiring houses in Islamabad for Americans, the Minister said action in accordance with the law will be taken and that necessary directions to the IG Police and Chief Commissioner had been issued. He added that the basic responsibility for supervising and reporting such activities lies with the local and provincial police. The Minister noted that while the IB and ISI worked directly under the Prime Minister, the FIA was the only agency that worked under the MoI. It was basically an investigative agency and did not enjoy powers of intelligence gathering.

587- The Minister said OBL managed to elude the notice of the agencies. This was a collective intelligence failure. It was a cumulative result of many interwoven issues. Low level administrative and security officials like the patwari, Constable, SHO, Revenue department and other agencies had all failed to pick up signs of the presence of such a famous fugitive.

588- Regarding OBL's presence in Pakistan, the Minister said he was thought to be residing or hiding somewhere in Yemen. As a result, no one could anticipate the US action in Pakistan.

Commission's Observations

589- Asked how OBL had managed to live undetected within the premises of Abbottabad Cantonment for such a long time, the Secretary said it was indeed a matter of great national concern that he had managed to live in a cantonment for so many years. But he said, it did not reflect on the Ministry of Interior which was he lea ministry for counterterrorism. The police did

not work under the Ministry of Interior, except for the Islamabad Capital Territory (ICT) where the police functioned under the Chief Commissioner of ICT. The Minister of Interior, however, in his remarks to the Commission took note of the many shortcomings of the police including their politicization and undertook to take remedial actions. This administrative confusion about who is in charge of what resulted in a lack of coordination and a turf war between organizations. When adverse developments occurred a game of passing the buck took place. As a result bad situations were never seriously addressed. They were just followed by even worse situations. This again has been the story of Pakistan and those who legally or illegally wield power and authority don't care to change it.

Chapter 26 Assessments of the Commission

Was there good reason to believe OBL had died and to close the file on him?

590- The Commission was told that the OBL track had gone cold, that he was known to be unwell, that the Americans had lost interest in him after their decision to invade Iraq and that after 2005, they never raised the issue of OBL with their Pakistani counterparts. However, despite all the contrary evidence cited in the report which should have made it clear that Americans had never closed the file on OBL even if from time to time it may have lost priority, the fact was the OBL's last audio message was broadcast in January 2011 regarding the release

of two French hostages in Afghanistan.[15] The voice analyses always ensured them to be authentic, and they referred to recent events in order to show that they were not recorded not a long time ago. This alone should have made it clear that OBL was very much alive and in communication with Al-Qaeda. Accordingly, the US file on him was never closed. It seems however, that the Pakistan's file was closed on him.

The killing of OBL

591- No apparent attempt to take him alive was made. Four Pakistani citizens were also killed without any attempt to disarm or detain them. None of them apparently put up any resistance or fired at the raiders. The US raid was not a capture or kill mission. It was a kill mission. Due process was deliberately denied the victims and their killing was explicitly authorized by the President of the US. It was accordingly a criminal act of murder which was condemned by a number of international lawyers and human rights organizations. It was however welcomed in the initial communications of the President and Prime Minister of Pakistan.

Killing one wife, sparing another

592- The killing of the wife of one of the slain al-Kuwaiti brothers and the wounding of the wife of the other was possibly the result of an accident. The injury of Maryam is more easily explained as an accident. The killing of Bushra was the result of the SEALs storming the room. It could have been unintended. If it was not, it was either because they thought she was a threat to them, or it may have been due to reasons that have not yet come to light.

Load shedding – coincidence or deliberate?

[15] The details of OBL's last audio message can be seen at Annex L

593- It is not clear if the unscheduled electricity load shedding in Bilal Town at the time of the start of the raid was coincidental or deliberate suggesting possibly connivance. The US Navy SEALs had night vision capability. But OBL and his family were fumbling in the dark. The power returned after the killing of Ibrahim. But it is not clear if the lights had returned by the time OBL and others in the main house were killed.

Choice of Abbottabad

594- It is not clear why OBL finally chose Abbottabad Cantonment in which to build a residence. It is easy to speculate on a set of possible reasons, and such retrospective speculation has been the stuff of many stories and casual analyses. But none have been confirmed. It is likely that one of his trusted lieutenants – possibly Abu Faraj al-Libbi – had a say in determining the choice of Abbottabad.The reasons may have included an ironic combination of the area's peaceful setting and the presence of several militants who had recently arrived. What seems clear is that Haripur was never intended to be a permanent residence. OBL had been planning to construct a home in Abbottabad that suited his requirements since quite some time.

Only the two brothers and their families living in the house?

595- The two al-Kuwaiti brothers and their families added up to 11 persons. Altogether along with OBL and his family (16 persons) there were 27 persons, including 11 adults staying in the Compound. For 16 persons, including 7 adults, of the OBL family to have remained hidden from view without anyone having an inkling of their existence for almost 6 years was remarkable, if not incredible. It is glaring testimony to the collective incompetence and negligence, at the very least, of the security and intelligence community in the Abbottabad area.

596- Moreover, and more importantly, one of the Lady Health Workers informed the Commission that at an earlier period she had orally administered polio vaccines to 10 children in the OBL Compound. Ibrahim and Abrar had between them 7 children at the time of the raid. Where did the other 3 children (at least) come from? Were they the grandchildren of OBL? As mentioned earlier in the report, at no time after September 2005 were there less than around 25 persons living in the Compound. How the entire neighbourhood, local officials, Police and security and intelligence officials all missed the size, the strange shape, the barbed wire, the lack of cars and visitors etc over a period of nearly six years beggars belief. It is because of this, that so many still do not believe that OBL was ever in the Compound.

Failure to detect the Incoming Helicopters

597- The presence of US helicopters in the sky of Abbottabad was first noted around at 0025 hours. Some other accounts say the sound of the helicopters was picked up a little later. This could easily be explained by the different locations of people who heard the helicopters. At 0025 hours the sound heard would have been of the incoming Black Hawk helicopters. Given that the US Navy SEALs were in the air and on the ground in Abbottabad Cantonment for over 40 minutes, and then took another hour or more to exit Pakistani air space there was obviously a real risk that they could be detected and engaged. How sure could the Americans have been that their operation would not be interrupted during this length of time? Did the US leadership do nothing to reduce the risk of detection and engagement? The inability to spot the low flying helicopters over Abbottabad Cantonment was a major failure. Right from the beginning, it should have been clear that there were more than one helicopter in the sky. Both of them could not have developed technical problem at the same time. They were also unlikely to be Pakistani helicopters which

did not usually fly at night. The significance of these questions is that they suggest the response of QRF and FF-19 on the ground and the PAF in the air should have been much quicker.

Chuck Pfarrer's "Seal Target Geronimo"

598- In his book "Seal Target Geronimo" former American Navy Seal, Chuck Pfarrer, said "During the month of April, the CIA had deployed assets into Abbottabad to confirm that the Compound was, indeed, occupied by Osama bin Laden. An apartment was rented close by as a listening post and photographic perch. In a slick but later obvious move, a Pakistani physician went door to door in the neighborhood offering free vaccinations for children. The strange people behind the high walls did not take the bait, but the doctor got a close look at their front gate and its multitudinous locks. His descriptions would be used later by the assaulters who would fabricate custom-made C4 charges to blast their way in."[16]

599- According to the book, "the CIA's assets who had surveyed OBL's Compound were soon rolled up by the Pakistani counterintelligence. The doctor and the landlord who rented the apartment were arrested, beaten and tossed into prison. So was a military officer alleged to have CIA ties and six policemen suspected to have diverted traffic the night of the assault.....it took less than thirty six hours for the Pakistanis to arrest everyone who had anything remotely to do with the operation."

Commission's Observation

600- Pfarrer's account is wrong with regard to Dr. Shakeel Afridi. He was arrested a full three weeks after the incident. The suggestion that "everyone who had anything remotely to do with the operation" was arrested within 36 hours is most likely a planted statement designed to divert

[16] Pfarrer, Chuck, 2011, Seal Target Geronimo, Saint Martin's Press: New York.

attention from the fact that other members of the CIA support network are still in Pakistan planning future "black operations".

601- If Shakeel Afridi was examining locks on the gates of the OBL Compound, he may have been more actively involved in the plan to blast them open. He may have accordingly known what kind of CIA operation he was facilitating. He should also have known jeoperdising future essential vaccination and health care programmes in Pakistan. However, the fact that he stayed on and did not immediately leave Pakistan casts some doubt on these supposition. He is entitled to a fair trial which should reveal the truth about his participation.

602- Pfarrer refers to a doctor and land lord who rented an apartment as a safe house. According to him, both of these gentlemen were arrested and beaten up by the ISI. Similarly, he says that there was a military officer and several Policemen were arrested. All of these were supposedly part of the CIA support group on the ground. Who were these gentlemen? Either Pfarrer is talking non sense or the ISI has not revealed their identities to the Commission.

Remarks made by Pakistan's Ambassador to UK

603- Pakistan's Ambassador to UK Mr. Wajid Shamsul Hassan, who while appearing on BBC, CNN and NDTV channels, stated that, "Whatever has happened, has happened with our consent; Pakistan was not totally in the dark" (CNN), and that, "Pakistan agencies had been monitoring OBL, like CIA. They had known where he was. That is how the Americans reached him. The Americans could not have reached him without our help" (NDTV). The high commissioner said that the CIAan ISI had jointly laid a trap for OBL which he walked into (BBC). When confronted with this, the High Commissioner stated that, "Since little was known officially of the

exact details of the May 2 operation, my immediate personal view was that as we were strategic partners of the US and had been sharing intelligence and cooperating with the US in operations against the Al-Qaeda since 2002 onwards, therefore, as a front line state in the war on terror, we must have been kept in the loop by the US. As soon as it was revealed that no one in the Government of Pakistan knew of the US 1-2 May OBL Operation, I described it as being stabbed in the back by our friends. There could not be a stronger condemnation of the unilateral action of May 2 than this. I then repeated this position and continued to reiterate it at every forum." He also stated, "I had presumed that since it was a gross violation of national sovereignty, the US must not have done it without informing ISI, Defence establishment and the Government."

Commission's Observation

604- Seldom has a High Commissioner made a more dishonest or absurd statement. He is admitting to either making a statement way beyond his authority and knowledge without any prior clearance from his superiors or on being instructed he is going back on his statement that he was specifically cleared to make. The High Commissioner is an experienced diplomat. It is most unlikely that he would not have made several telephone calls before finalizing his response to questions that were going to be put to him by the media. If there was not enough time, it was his duty to say he was seeking clarification from the Ministry in Pakistan. This would have been elementary knowledge for the High Commissioner. That is why, it is difficult for the Commission to dismiss his first statement as the utterance of a complete incompetent.

Chapter 27 Assessment of the GoP response

605- The first formal response to the unprecedented events of the night of May 1-2, 2011 from the Government of Pakistan was issued by the Foreign Office on May 2. This was followed by a second statement on May 3, while the Foreign Secretary also talked with the Press on May 5. In between, President Zardari's article was published in the Washington Post on May 3, and a statement was made by Information Minister Dr. Firdous Ashiq Awan on May 2. The Prime Minister also issued a statement on May 2, and addressed the Parliament on May 9, while a Joint Resolution in the Parliament was passed the same day. A careful perusal of the responses coming

in the first 24 hours of the incident indicate that a sense of confusion prevailed, resulting in some incoherent statements being made by the Government of Pakistan.

606- The Commission reviewed eight responses given on various dates that included the following:

1. Statement by Foreign Office Spokesperson Ms. Tehmina Janjua dated May 2, 2011;
2. President's article on May 2, 2011 and its legal effect;
3. Statement by the Prime Minister, May 2, 2011;
4. Statement by Ministry of Information, May 2, 2011;
5. Statement by Ms. Tehmina Janjua, dated May 3, 2011
6. Statement by Secretary Ministry of Foreign Affairs, May 5, 2011;
7. Speech of Prime Minister on May 9, 2011;
8. Parliament's Joint Resolution.

607- On May 2 the Minister of Information, Dr. Firdous Ashiq Awan said, "US forces acted and killed OBL in Pakistan by exercising United Nations Resolutions."This was a remarkably misinformed statement since no UN resolution authorized a military raid to capture or kill OBL. The statements of the Prime Minister and the Foreign Office the same day did not refer to any US violation of Pakistan's sovereignty. This was equally irresponsible since the US raid was a clean violation of Pakistan's sovereignty, unless it happened with the approval of the government of Pakistan.

608- The next day, May 3, the Ministry of Foreign issued a detailed press release that sought to dispel the impression that the US operation had been carried out with the consent of the Pakistan government or that it had any prior knowledge of it. The press release referred to a statement by

the US White House which said that, "We did not contact the Pakistanis until after all our people, all our aircraft were out of Pakistani airspace." The violation of Pakistan's sovereignty was confirmed by the US, but still not condemned by Pakistan.

609- The MoFA Press Release noted, "The Government of Pakistan recognizes that the death of OBL is an important milestone in the fight against terrorism and that the Government of Pakistan and its state institutions have been making serious efforts to bring him to justice." However, it went on to express "deep concerns and reservations on the manner in which the Government of United States carried out this operation without prior information or authorization from the Government of Pakistan. This event of unauthorized unilateral actions cannot be taken as a rule. The Government of Pakistan further affirms that such an event shall not serve as a future precedent for any state, including the US. Such actions undermine cooperation and may also sometimes constitute threat to international peace and security. Pakistan, being mindful of its international obligations, has been extending full and proper cooperation on all counterterrorism efforts including exchange of information and intelligence. Pursuant to such cooperation, Pakistan had arrested several high profile terrorists." The above statement was truly shameful. It twisted and turned and went through all the convolutions of an acrobat to avoid explicitly condemning the US action and the violation of Pakistan's sovereignty, independence and territorial integrity. Indeed the statement actually supported the American action by suggesting it achieved a common purpose. The statement dripped with confusion, fear, hypocrisy, deceit and insincerity. It may have been some kind of an attempt to correct the statement of the Minister of Information. But it was even worse than her statement.

610- Later, the much maligned Minister of Information, speaking in the National Assembly, fell into line with the press release of the Foreign Office. This was followed two days later by a press

briefing by the Foreign Secretary on May 5 in which he described the US raid on Abbottabad as a violation of the UN Charter. Even so the government could not summon the courage to condemn it explicitly.

611- Four days later, on May 9, the Prime Minister said "the statements issued by the Foreign Ministry and the Military on the death of OBL were authorized by the Government." He sought to dispel the impression that his Government had any sympathy for OBL by stating "Al-Qaeda had declared war on Pakistan. OBL's elimination from the scene attests to the success of the anti-terror campaign." This was in fact an endorsement of the US action.

612- The first time the US action was expressly condemned was 11 days after when on May 14 a joint sitting of the houses of Parliament unanimously adopted a joint resolution statement that condemned the US unilateral action in Abbottabad as having constituted a violation of Pakistan's sovereignty. It stated that unilateral actions such as the US action in Abbottabad and the drone attacks on the territory of Pakistan were unacceptable and violated the principles of the Charter of the United Nations, international law and humanitarian norms. The record will show while the parliament finally condemned the US violation of Pakistan's sovereignty, the government never did. Its dereliction of duty was not just beyond words; it was a major violation of its constitutional obligation.

Chapter 28 Legal aspects of the May 2 Incident

Inputs by Ahmer Bilal Soofi

613- Pakistan's renowned international lawyer Mr. Ahmer Bilal Soofi informed the Commission that the UN Charter prohibited intervention by one state in another under Article 2 (4), which states that all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state or in any other manner inconsistent with the purposes of the United Nations. Intervention was permissible only under Article 51 of the UN Charter i.e. in self defence; under Chapter 7 of the UN Charter (through a

resolution adopted by the UN Security Council); under the Uniting for Peace Resolution of 1951 of the UN General Assembly; Humanitarian Intervention (only in the case of genocide and serious calamity); and to rescue nationals from abroad. The last two are politically most controversial as they have in practice been subject to abusive misinterpretation by big powers which have used them as cover for military aggression without proper and explicit authorization from the UN Security Council.

614- The UN Security Council (UNSC) has adopted a number of Resolutions under Chapter 7 relating to terrorism as mentioned below:

615- UNSC resolution 1267 was specific to Afghanistan/Taliban and Al-Qaeda. There were a number of subsequent resolutions on the subject. OBL was the subject of several of these Resolutions, but none of these Resolutions demanded or authorized the assassination of OBL.
616- UNSC Resolution 1373 was the main Resolution which specifically related to counter terrorism.

617- No UNSC Resolution authorized intervention in Pakistan. UNSC Resolution 1267 which was adopted on October 15, 1999 "demands that the Taliban turn over Osama bin Laden without further delay to appropriate countries in a country where he has been indicted, or to appropriate countries in a country where he will be returned to such a country, or to appropriate authorities in a country where he will be arrested and effectively brought to justice."

618- UNSC Resolution 1368, adopted on September 12, 2001 – immediately after the 9/11 attacks –also does not authorize the use of force against any other country. It "calls on all States to work together urgently to bring to justice the perpetrators, organizers and sponsors of these terrorist attacks, and stresses that those responsible for aiding, supporting or harbouring the

perpetrators, organizers and sponsors of these attacks will be held accountable." It also "expresses its readiness to take all necessary steps to respond to the terrorist attacks of 11 September 2001, and to combat all forms of terrorism, in accordance with its responsibilities under the Charter of the United Nations." None of this can, under any circumstances, be construed as an authorization for military invasion which has to be explicitly stated and cannot be inferred from "all necessary measures."

619- There is a misconception that the Durand Line between Afghanistan and Pakistan is not an international boundary and, as such, the crossing of that line by Afghan/US forces does not constitute intervention. The Durand Line has been declared and accepted as the international boundary through judgments of the Supreme Court of Pakistan, the International Court of Justice and the Geneva Accords between Pakistan and the Afghanistan guaranteed by the United States and the erstwhile Soviet Union.

620- Accordingly,

1. The Abbottabad operation which violated Pakistan's territorial integrity and its airspace, and constituted unauthorized intervention under international law.
2. There is no evidence in the public domain that Pakistan had given any consent for the American intervention; and
3. Pakistan actually protested and expressed its reservations about the Abbottabad operation.

International legal opinions regarding the May 2 incident

621- After the completion of the US raid on Abbottabad and the killing of OBL along with 4 other people, President Obama said "justice was done." The renowned international law

specialist, Benjamin Ferencz, commented, "The issue here is whether what was done was an act of legitimate self-defence." He told the BBC "killing a captive who poses no immediate threat is a crime under military law as well as all other law."

622- The US Attorney General, however, insisted the operation was a "kill or capture mission" and "obviously lawful." He argued to the BBC "if there was the possibility of a feasible surrender, that would have occurred", adding that "the protection of the Navy SEALs was a priority." He claimed it was at night, it was dark, the target was a "mass murderer" who had sworn to continue his attacks against the US. Accordingly, "when confronted with that person, in the absence of any clear indication that he was going to surrender, I think they acted in an appropriate way." After initially suggesting OBL was armed US officials later acknowledged that he was not carrying a weapon. Legal experts have, accordingly, asked whether the US forces were instructed to kill, and whether OBL was offered a chance to give himself up.

623- US officials have also sought to justify the killing of OBL as "an act committed as part of an armed conflict with Al-Qaeda." The US Attorney General said "it was not an assassination" but instead "an act of national self-defence." He added "it was lawful to target an enemy commander."

624- The highly regarded British Barrister, Geoffrey Robertson, described President Obama's claim that "justice was done" as an "absurdity" that should have been obvious to a former professor of constitutional law (i.e. Obama.)

625- According to Robertson, Pakistani law "requires a colonial inquest on violent death, and international human rights law insists that the right to life mandates an inquiry whenever a violent death occurs from government or police action. The US is therefore under an obligation

to hold an inquiry that will satisfy the world as to the true circumstances of this killing." Robertson adds that "the law permits criminals to be shot in self-defence if they resist arrest in ways that endanger those striving to apprehend them. They should, if possible, be given the opportunity to surrender, but even if they do not come out with their hands up, they must be taken alive if that can be achieved without risk. Exactly how OBL came to be "shot in the head" therefore requires explanation. Why a hasty burial at sea without a post mortem as the law requires?"

626- Another US legal specialist, Philip Bobbitt, was of the opinion that the killing of OBL was "part of an armed conflict authorized by the United Nations, authorized by both houses of Congress."

627- According to a legal commentator on BBC "the extent to which OBL could have still been a key commander, given the restrictions on his movements and communications, has been queried, though the US has said he was active in operational planning from Abbottabad." However, "the location of the raid raised questions. OBL was killed in a normally quiet town, in a country with which – despite ongoing military operations including drone strikes near the border with Afghanistan – the US is not officially at war. And Pakistan was not given prior warning of the raid."

628- British Law Professor, Phillipe Sands, said "the question to ask is: were the measures taken in the actual situation that pertained reasonable and proportionate, given the circumstances in which the Navy SEALs found themselves? He told the BBC "the facts for OBL do not appear to easily meet that standard."

629- According to Sands, "as a matter of international law, one country is not free to enter another country apparently without the authorization of that country, and intervene, whether to kidnap or kill a national of a third state." Only under "the doctrine of necessity" where there is "an overriding threat to national security," such an act "might not give rise to responsibility or liability." Nevertheless, Sands said "the difficulty with the "doctrine of necessity" in this case was "that it comes against the background of a rise in extrajudicial killings, including through the use of drones," and this was not a "lawful direction to be taking." The logical conclusion of any idea that OBL could be killed as an enemy combatant was "anyone associated with Al-Qaeda in any country in the world can be taken out, can be executed." Accordingly, Sands concluded, "I think it is deeply troubling if indeed we are moving to a place where you can have a global assassination policy for those who are perceived to cause trouble."

630- The UN special rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, and the special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, noted "in certain exceptional cases, use of deadly force may be permissible as a measure of last resort...including in operations against terrorists. However, the norm should be that terrorists should be dealt with as criminals, through legal processes of arrest, trial and judicially decided punishment...actions taken by states in combating terrorism, especially in high profile cases, set precedents for the way in which the right to life will be treated in future instances."

Expert opinion sregarding the May 2 incident

631- Noam Chomsky, the noted scientist, political commentator and human rights activist has written that "after the 9/11 attacks, there was a choice. The attacks were pretty harshly

condemned within the Jihadi movement. That has been well studied in the academic literature. So there was a choice, either you try to isolate Al-Qaeda within the Muslim world and then maybe go after it .... or follow OBL's orders and carry out wars in the Muslim world which would be seen as wars against Islam, and therefore it would mobilize more terrorists. This is what US intelligence specialists said. But the US followed OBL's script. His best allies were in Washington."

632- On the raid itself Chomsky noted "on May 1, 2011 OBL was killed in his virtually unprotected Compound by a raiding mission of [79] Navy SEALs who entered Pakistan by helicopter. After many lurid stories were provided by the US Government and withdrawn, official reports made it clear that the operation was a planned assassination, multiply [several times] violating elementary norms of international law, beginning with the invasion itself." Chomsky observed further that "there appears to have been no attempt to apprehend the unarmed victim, as presumably could have been done by the commandos facing no opposition."

633- As Chomsky observes, "in societies that profess some respect for law, suspects are apprehended and brought to fair trial." Eight months after 9/11 the FBI head could say only that "investigators believe the idea of the September 11 attacks on the World Trade Center and the Pentagon came from Al-Qaeda leaders in Afghanistan, the actual plotting was done in Germany, and the financing came through the UAE from sources in Afghanistan....we think the masterminds of it were in Afghanistan, high in the Al-Qaeda leadership." Thus, Chomsky notes, when Obama claimed that "we quickly learned that the attacks were carried out by Al-Qaeda" his assertion was "not true." Moreover, according to Chomsky, what the FBI believed "leaves us far from the proof of guilt required in civilized societies – and whatever the evidence might be, it

does not warrant murdering a suspect who could, it seems, have been easily apprehended and brought to trial."

634- The 9/11 Commission provided "extensive circumstantial evidence of OBL's role in 9/11, based primarily on what it had been told about confessions by prisoners in Guantanamo. It is doubtful that much of that would hold up in an independent court, considering the ways confessions were elicited. But in any event, the conclusions of a congressionally authorized investigation, however convincing one finds them, plainly fall short of a sentence by a credible court, which is what shifts the category of the accused from suspect to convicted". Chomsky adds, "All this is, transparently, quite independent of one's judgments about OBL's responsibility, which seemed clear immediately, even before the FBI inquiry, and still does."

635- Americans, he said, should ask themselves "how we would be reacting if Iraqi commandos landed at George W Bush's Compound, assassinated him, and dumped his body in the Atlantic (after proper Christian burial rites, of course.)" Bush, of course, was not a "suspect." He was the "decider" who gave the orders to invade Iraq - that is, to commit "the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evils of the whole" i.e. all the other war crimes put together, according to the Nuremberg Tribunal.

636- According to Yochi Dreazen and colleagues in the Atlantic journal "the US administration had made clear to the military's clandestine JSOC that it wanted OBL dead....the SEALs knew their mission was not to take him alive."

637- "For many at the Pentagon and the CIA who had spent nearly a decade hunting OBL killing the militant was a necessary and justified act of vengeance." Dreazen importantly noted "capturing OBL alive would have also presented the Administration with an array of nettlesome

legal and political challenges. Better then to assassinate him, dumping his body into the sea without the autopsy considered essential after a killing."

638- According to the Atlantic inquiry "the decision to kill OBL outright was the clearest illustration to date of a little-noticed aspect of the Obama Administration's counter-terror policy. The Bush Administration captured thousands of militants and sent them to detention camps in Afghanistan, Iraq and Guantanamo Bay. The Obama Administration, by contrast, has focused on eliminating individual terrorists rather than attempting to take them alive."

639- Former West German Chancellor, Helmut Schmidt, told German TV that the US raid was "quite clearly a violation of international law" and that OBL should have been detained and put on trial. The US Attorney General however told a House panel that although OBL did not pose an immediate threat to the Navy SEALs, his killing was "lawful, legitimate and appropriate in every way."

Chapter 29 US-Pakistan relations

640- This is a relationship that has been on a roller coaster ever since it began. To some extent this is inevitable in a relationship with a world power that has a much larger canvas before it than Pakistan. It is a relationship about which governments in Pakistan have seldom been honest with their own people, leading to inevitable crises of expectations, disappointments and negative consequences. It has never been a genuine people to people, transparent or honest relationship. But it is a necessary relationship that needs to be rationalized, right-sized and freed from false assumptions. The US and Pakistan may share some policy objectives but there is not a sufficient basis for a strategic partnership between them. US policies towards the region in which Pakistan

is situated make that impossible. The US War on Terror; it's likely post 2014 policies in Afghanistan; it's very real threat of war against Iran; its emerging hostility towards China; and it's real strategic partnership with India, taken together, put definite and undeniable strategic limits to the relationship between Pakistan and the US. Once this is honestly accepted, a healthy, mutually beneficial and important bilateral relationship will become more feasible. It will also be an important stabilising factor for the region.

641- Since it was the US that carried out the May 2 raid on Abbottabad, some detailed comments on the relationship between Pakistan and the United States in the run up to the incident are in order. The relationship has been based largely on US economic and military assistance to Pakistan on the one hand, and the contingent utility of Pakistan for the US on the other. It is a relationship that is not rooted in a tradition of shared culture, political perceptions and strategic interests. Nevertheless, at its best, it has been a mutually beneficial relationship. More often, it has pretended to be a strategic relationship without being one, except for brief durations of overlapping interests in dealing with common challenges. Pakistan's major adversary, India, especially since the end of the Cold War, has been the US strategic partner of choice in South Asia. Pakistan also deplores the discriminatory policy of the US regarding civilian- nuclear cooperation, and its several violations of Pakistan's sovereignty through border raids, drone attacks and special operations that have resulted in the death, injury and traumatizing of very significant numbers of its citizens. Many Pakistanis, as a result, see the US as the primary external threat Pakistan faces today.

642- Prior to September 11, 2001, Pakistan under General Musharraf made a clear distinction between Al-Qaeda and the Taliban, and pursued a policy of support for the latter in the hope of achieving influence or a chimerical "strategic depth" (i.e. leverage) in Afghanistan. However,

immediately after 9/11, the General performed *volte face* for fear of the consequences of US wrath and accepted its war demands against the Taliban with little or no cavil. This paved the way for the American military invasion of Afghanistan on October 7, 2001 that has led to the devastation of that country and created a veritable hell for the Afghan people, especially in the east and south of the country which adjoin Pakistan. Pakistan chose to become an unenthusiastic ally of the US in its War on Terror in Afghanistan. Despite the fact that there were several UN resolutions on terror and the apprehension of OBL, there was no specific resolution of the UN Security Council authorizing the military invasion of Afghanistan. For its connivance in the illegal US invasion and occupation of Afghanistan, Pakistan was duly rewarded in 2004 with the status of a Major Non-NATO Ally (MNNA) and a substantial military and civilian assistance package. This soon led to a loose and largely unsupervised visa regime for Americans allowing the CIA to spread its tentacles throughout Pakistan. This was in fact a condition for American assistance. It ultimately facilitated the unilateral manhunt for OBL.

643- Cooperation between the CIA and the ISI netted many hundreds of terrorists including High Value Targets (HVTs) belonging to Al-Qaeda. ISI has carried out 891 operations against Al-Qaeda in which it has killed 866 of its network's operatives, including 100 key leaders. It has also apprehended 922 Al-Qaeda personnel, including 96 high-value targets, and busted 42 networks.

644- The costs of such cooperation for Pakistan have been substantial both in terms of blood, and treasure as well as widespread alienation and instability within the country. Many tens of thousands of civilian lives and many thousands of military lives have been lost. Many more have been seriously wounded and crippled for life. Many hundreds of thousands of civilians were internally displaced from their homes by military operations. Similarly, illegal US drone attacks

have taken their toll of human lives, and have inflicted massive physical injury, property destruction, psychological trauma and political alienation of Pakistan. These are real costs that are difficult for middle and upper class Pakistanis living in the relative security and comfort of urban areas to comprehend even when they read about or view them in the media every day. These costs are estimated to add up to several multiples of the military and civilian assistance Pakistan has allegedly received from the US. Many Pakistanis believe that it has been a rotten bargain except for the ruling elite and the rentier classes.

645- Nevertheless, it would be wrong not to acknowledge the very considerable value and diversity of US assistance to Pakistan and its people. Even so, the conclusion is inescapable that to a great extent there has been a shortage of mutual appreciation, regard and trust in this contingent, transactional and often resentful relationship which, by and large, neither side has cared to see in a longer term perspective, except rhetorically.

646- In 2008, the US National Security Agency (NSA) Director Mike McConnell reportedly confronted ISI Director General Ahmad Shuja Pasha, claiming that the ISI was tipping off Jihadis so that they could escape in advance of American attacks on them. President Obama reportedly also raised the issue with President Zardari. Western officials also alleged that nearly 70 percent of the aid given to the Pakistan military during 2002-2007 had been "misspent."

647- On June 11, 2008, the Gora Prai airstrike on the Pakistan-Afghan border killed 10 members of the paramilitary Frontier Corps. The Pakistan military condemned the airstrike as an act of aggression. There were several military confrontations also along the Pakistan-Afghanistan border including skirmishes between American and Pakistani forces. These culminated, after the Abbottabad raid of May 2 in the deliberate and serial murder of 24 Pakistani soldiers by

American forces on November 26, 2011 in the Salala border area. The US President refused to apologize for the loss of life and the American military investigation disingenuously blamed both sides, which further outraged opinion in Pakistan. Conversely, American comment and opinion was adamantly opposed to the idea of a Presidential apology to Pakistan. Both sides in fact saw the incident as a deliberately intended message to the Government of Pakistan that the US would brook no defiance of its demands on issues that affected the security of US forces in Afghanistan. It would not be wrong to say that there have been moments when, despite the patron-client relationship, the two countries have actually seen each other as adversaries if not enemies.

648- Less than three months before the US raid on Abbottabad there was the infamous Raymond Davis case. The American "private security contractor" (a euphemism for privately hired hit men, goon thug) shot dead two Pakistani motorcyclists in Lahore in broad daylight, whom he claimed were threatening him. Later, the US demanded the killer goon be considered a diplomat on their say so, despite the fact that he had not been designated by the US or listed by the Ministry of Foreign Affairs as a diplomat. The US suspended high level contacts with Pakistan because of the temerity of the MoFA not to accede to its arrogant and unlawful demand which was nothing less than an affront to the sovereignty and dignity of Pakistan. However the Foreign Minister of Pakistan lost his job because of his principled stand.

Revelations from Bob Woodward's "Obama's Wars"[17]

649- The US White House approved insider author, Bob Woodward, makes it clear in his book, "Obama's Wars," that President Obama and his top advisers had the most negative perceptions

[17] Woodward, Bob, 2010, Obama's Wars, Simon and Schuster: New York

regarding Pakistani policy makers. Pakistan was regarded as a "dishonest partner" and its leadership was "living a lie." The ISI was behaving "as if it had six or seven personalities." Its Directorate "S" was "financing and nurturing the Taliban". The ISI and the military "could not or would not control their own people." They had a "paranoid mindset." They neither wanted the US to succeed in Afghanistan nor to leave Afghanistan. They feared "encirclement by India" more than "extremists at home." There were more than 150 Taliban training camps in FATA. The Haqqani network had "virtual immunity in Pakistan" and "Al-Qaeda was free to set up and train."Accordingly the question for US was: "How do we change Pakistan's calculus?" If "you do not get Pakistan right you cannot win." According to President Obama "changing Pakistan's calculus is key to our core goals. The safety of the US hinges on Pakistan." What did changing Pakistan's calculus entail?

650- According to Bruce Reidel, a senior adviser to the US President on terrorism, "Pakistan was the most dangerous country in the world. It was "the epicenter of Al-Qaeda's fight." The "cancer had spread there" and it had to be "excised." The US had to be "on both sides of the Pakistan-Afghanistan border" to be effective. The focus had to shift to Pakistan, which was "the patron, the victim and the safe haven all at once." A "Retribution Plan" to bomb 150 "known terrorist safe havens inside Pakistan" was reportedly drawn up. General Petraeus said he was "worried Pakistan was emerging as the necessary war."

651- Shortly after the New York Times Square bombing attempt, the US conveyed to Pakistan that US could "no longer tolerate Pakistan's *a la carte* approach in going after some terrorist groups and supporting, if not owning, others. Pakistan is playing Russian roulette. The chamber has turned out empty the last several times. But there will be a round in that chamber some day." (that day was May 2, 2011)

652- So what could the US do to "impact Pakistan's attitude?" According to Reidel, "one, raids across the border, and two, bomb the extremists in Pakistan." What would be the consequences? Pakistan would "probably be pissed off" and "take some actions against us, but would eventually adjust to the situation." The US "could get away with it." (This is strikingly similar to what actually happened after Abbottabad, and later after Salala.)

653- Bob Woodward's book was published a year before the US raid on Abbottabad and was and still is widely available in Pakistan. But as the DG ISI told the Commission no one reads or even thinks in Pakistan. In the period between the publishing of the book and May 2, 2011 the Pakistan US relationship if anything got worse. The Raymond Davis incident, the unilateral drone attacks without consulting Pakistan, and several other actions of the US made clear how aggressive and "kinetic" its policies had become in brazen disregard of human rights, and international law. Thus, in the run up to the Abbottabad incident, the US and Pakistan bilateral relationship, while based on wide ranging military, economic and other cooperation, was also significantly marred by mutual, perceptions of each other's involvement in violence against their respective forces, conflicting interests in the region, escalating tensions, and opinion polls that indicated the two countries deeply disliked and distrusted each other. Nevertheless, those whose direct responsibility was the defense of Pakistan, "could not even dream" that the US would "stab Pakistan in the back."

Chapter 30 Findings of the Commission

654- In view of the foregoing it is time to offer some definite or probable answers to questions and make the necessary findings as in the Commission's mandate.

655- Ascertain the full facts regarding the presence of OBL in Pakistan

i. **Was OBL present at the Compound when the US operation took place on May 2, 2011?**

656- Answer: This is despite the fact among the people of the neighbourhood in which the OBL Compound is located, there was near unanimity that he could not have been living with his family amongst them for so long without their getting wind of it. Their expectations of the local,

provincial and federal police and security officials, as well the military and intelligence authorities who were responsible for the security of the Pakistan Military Academy and other military institutions in Abbottabad Cantonment, were such that they could not believe they were all fooled for so long. These sentiments were more or less shared by most people of Pakistan, especially in the immediate aftermath of the incident.

657- However, DNA analyses, the testimony of OBL's widows and daughters, the announcement of President Obama on May 2, the statement on the Al-Qaeda website on May 6, the personal belongings and diaries and writings of OBL that were discovered in the house where he was staying, the presence of items in the residence that were shown in video clips of OBL watching TV in his room which were shown to the Commission, the fact that there have been no contra-indications of his not being present, etc. indicate an overwhelming probability that he was present in the house in Abbottabad on the night of the raid. If it is assumed the missing person was not OBL it would be necessary to construct an explanation that would have a probability of near zero. The whole scene would have had to be elaborately set up including finding a whole family of impersonators to play the role of the wives and daughters of OBL, obtaining the body of a dead son of one of the female imposters who would have also to be the son of the missing allegedly killed person. In fact, CIA, ISI and Al Qaeda would have to closely collaborate to construct such a fanciful scenario. Such a scenario would also have a near zero chance of being kept a secret.

658-Finding: OBL was present at the Compound when the US operation took place.

ii. Was OBL killed?

659- The family of OBL confirmed OBL's identity and death after having seen his body. The inter-relationships of the family were confirmed through DNA testing of their blood and matching it with OBL's blood found on the floor of his bedroom. Of course DNA testing alone cannot determine whether the person concerned was dead or alive.

660- The US President confirmed the killing of OBL on May 2 and Al-Qaeda also confirmed OBL's death on May 6. The lack of any development since May 2 that might suggest OBL may be alive also needs to be taken into account. Moreover, the amount of OBL's blood that splattered his room and the discovery of brain matter which was also DNA tested more or less conclusively established the impossibility of his survival. Once again, mathematically the probability of OBL's death is less than 100% certain. But for all practical purposes it may be treated as effectively an absolute certainty.

661- Finding: OBL was killed by US Navy SEALs in the early hours on May 2, 2011.

iii. Why was no evidence of OBL's death made public?

662- Answer: This was a US decision. There are several possible explanations for it. OBL's body was probably so gruesomely disfigured that it was feared public opinion in the Muslim world would have been shocked, not so much by OBL's elimination, but by the savage hatred with which the American soldiers murdered him which the pictures of his mutilated corpse would have clearly shown.

iv. How long had OBL been resident in Abbottabad?

663- Answer: Since August 2005. The diaries of OBL confirm this. Members of the neighbourhood community in Bilal Town also saw the two couriers regularly over the nearly 6 year period. That would indicate OBL was there for the same period.

664- Finding: OBL was resident in Abbottabad for nearly six years.

v. How long had he been resident in Pakistan?

665- Answer: According to the testimony of the wives of OBL, Maryam - the wife of Ibrahim, and the diaries discovered in the house, OBL arrived in Pakistan sometime in the spring or summer of 2002. Apparently he stayed in Haripur for approximately two years from 2003 to 2005 and in Abbottabad from August 2005 till his death on May 2, 2011.

666-Finding: OBL stayed in Pakistan more than 9 years.

vi. Where else did OBL and his family stay?

667- Answer: All the places in Pakistan where OBL stayed are not fully known. But it included FATA (South Waziristan and Bajaur), Peshawar, Swat and Haripur. If we include the family of OBL then Karachi, Quetta and the Iran-Pakistan border area must also be added. The testimony of his family suggests that OBL was in Kandahar until just before the September 11, 2001 attacks on the US. He may have gone to the Tora Bora region from where he either entered Pakistan or more likely, remained in Afghanistan until sometime in 2002. Shortly after September 11, 2001 the family of OBL was shifted from Kandahar to Karachi. They were accompanied by Ibrahim and his wife Maryam. This does not appear to be consistent with Maryam's account to the Commission in which she said she was married (presumably in Shangla from where they both came) and was then taken to Karachi where she first met Amal who,

according to her husband, was the wife of a friend and had some trouble with her passport. The other two wives of the OBL were apparently living separately in Quetta or Karachi. Who was looking after them? Where did they stay? The intelligence agencies have not been able to provide answers to these questions. Apparently none of the residences of OBL and of his wives in Karachi, Quetta, Peshawar or Swat have been located. Only the residences of OBL in Haripur and Abbottabad are known.

668- According to the ISI interrogation report, in mid-2002 Ibrahim, his wife Maryam, and Amal, left Karachi for Peshawar where they were joined by OBL. Fairly thorough arrangements would have been needed to look after the other two wives of OBL, especially if they feared they were being tracked by intelligence agencies. (All these questions remain unanswered). Moreover, the movements of OBL's three sons, Khalid, Hamza and Saad within Pakistan remain largely unknown. Nor is anything known about whether Hamza or Saad ever visited their father in Haripur and Abbottabad. Nothing is also known about whether or not Hamza married a local girl in Pakistan and if so, where she came from and what was her family background.

669- After September 11, 2001, apparently Khairiyyah travelled from Kandahar to Quetta on her way to Karachi. From there she accompanied Sharifa to Quetta again. Subsequently, from Quetta, possibly accompanied by her step-son, Saa'd, her son, Hamza, his wife, son and daughter, Khairiyyah travelled to Iran, apparently intending to go to Syria. However, they were arrested in Iran, probably Mashad. The ladies were sent to Tehran while the men were kept in Mashad. Later they joined them in Tehran. Saa'd, apparently escaped or was released from prison in Tehran, landed up in Waziristan and was killed there. How? A drone attack? Special Operations? Accidentally? Where was he buried? There are no answers available to any of these potentially important questions.

670- Sometime later, Hamza and his family left Tehran, travelled by air to Zahidan and then preceded by road through Quetta to Waziristan. Khairiyyah stayed in Tehran for nearly eight years from 2002 to 2010 before being released. She had wanted to go to Qatar, but due to some disagreement between Qatar and Iran over the kind of travel documents she could carry, she could not go there. She then apparently travelled to Zahidan and then to Mashad. From there, according to some reports, she travelled via Kandahar or Zahidan to Quetta and Waziristan. There she received a letter or message from OBL informing her he was making arrangements for her to join him. She was then escorted to Abbottabad where she rejoined her husband after so many years. That was approximately three months before the American raid. Sharifa apparently stayed on in Quetta till mid 2003 and then joined OBL in Haripur.

671- Finding: OBL stayed in FATA (Bajaur and Waziristan), Peshawar, Swat, Haripur, Abbottabad and possibly other places in Pakistan. His family also stayed in Karachi, Quetta and Iran.

vii. How were OBL and his family able to stay and travel in Pakistan without detection?

672- Answer: The explanation given to the Commission was that they had a minimum but dedicated support network that met their every need. They kept a very low profile and lived extremely frugally. They never exposed themselves to public view. They had the cover of the two Pakistani Pashtun couriers cum security guards. They had minimum security. OBL successfully minimized any "signature" of his presence. His minimal support group blended easily with the surrounding community. His couriers made use of public call centers in towns at

a distance from Abbottabad. His wives, children and grandchildren hardly ever emerged from the places where they stayed. His couriers and protectors were two Pashtun brothers who had a cover story which was quite credible in the eyes of neighbours and local officials. No one ever visited them, not even trusted Al-Qaeda members, especially, after the arrest of Khalid Sheikh Mohammad.

viii. **How was OBL able to stay within the limits of Abbottabad Cantonment?**

673- Answer: The explanations were that Abbottabad was an "open" cantonment. Bilal Town was a "civilian" area within the cantonment. A lot of recent immigrants had settled there as a result of the 2005 earthquake, floods and displaced persons from areas where counterterrorism operations were conducted. Some of them lived with their families in large secluded residences not unlike the OBL Compound. The OBL Compound and house were bought and constructed through a whole series of illegal and irregular transactions based on fake documents and false identities. There was also extensive complacency, inefficiency and negligence in the local civil administration, the police and the civil and military intelligence agencies and security authorities of the cantonment area.

674- According to the Commission's findings, these explanations were credible up to a point. But they do not adequately account for the comprehensive and sustained failure of the intelligence and security agencies to detect any leads or abnormalities which if followed up professionally and systematically might have led to a completely different outcome from what happened on May 2, 2011.

675- The house where OBL and his family stayed for almost six years was hardly normal. It was isolated, large, with very high walls and barbed wire. It was very peculiarly designed. It was

actually designed for four separate families. In places the walls were 18 feet high. The house had a most unusual 7 foot screen wall on the top floor. There were no visitors, no coming and going of cars, no TV cable, and no telephone connections, no rubbish collection, none of the children went to school. There were no security guards for a house designed for security. None of this served to attract any notice from our intelligence, security and military personnel for almost 6 years. But it took the CIA almost no time to conclude that the house was probably a hideout for a HVT.

676- Finding: OBL was able to stay within the limits of Abbottabad Cantonment due to a collective failure of the military authorities, the intelligence authorities, the Police and the civilian administration. This failure included negligence and incompetence and at some undetermined level a grave complicity may or may not have involved.

ix. What was the nature and extent of the OBL support network?

677- Answer: It was probably quite small. It comprised largely if not exclusively Al-Qaeda and Al-Qaeda associated groups. It probably had a wider group of less dedicated and less regular support from sympathetic Pakistani Jihadi groups and individuals.OBL would have needed to hide, to travel, to feed himself and his family. This would have involved a number of services. Vehicles would need to be provided. Air tickets would have to be bought. Identity cards would be required. Bills would need to be paid. Security would need to be provided effectively but in very low key. Disguises would need to be assumed. Accommodation would need to be bought or hired. Complete and permanent cover for OBL would have to be arranged. Money and social

contacts would be needed. A modality for communications with Al-Qaeda operatives without exposing OBL's location would be necessary. His guards and couriers would also have to hide their true identities in order to safely interact with the society around them and make all the necessary arrangements on a daily basis. They would have had to bribe officials to obtain various illegal permissions on the basis of false identity documents and in violation of procedures and regulations. The general weaknesses of the bureaucracy including corruption, negligence, irresponsibility, etc. would have assisted them. But they could not completely rely on the whole system being dysfunctional all the time. A considerable degree of planning, logistics and outside assistance would also be needed. Arabs and Al-Qaeda would not be sufficient. Local Pakistani support would have been essential. A purely Arab support team could not possibly function or remain undetected in a Pakistani environment. The core support network of support for OBL would need to be kept quite small. But it would have had to be embedded in an enabling environment of both active and passive local support.

678- According to recent information reaching the Commission, Khalid Shaikh Muhammad, who was arrested on March 1, 2003 headed the Al Qaeda support group for OBL in Pakistan. His other associates were Abu Musaab Al Balochi, Umar Kathio alias Abdullah Al Sindhi, Amal Ahmed Abul Fateh,Mustafa Muhammad Khan Alias Hassan Gul, Ramzan alias Abu Harith, Ammar Chottu and Dr. Akmal Waheed. All of these people were arrested in the period 2004-2006. It is not known who replaced them as members of the core group of Al Qaeda support in addition to two Kuwaiti brothers for the period of 2006-20011.

679- In addition, the information given to the Commission with regard to the two houses in Karachi where the family of OBL stayed i.e. near the Drive-in Cinema in Gulistan-e-Jauhar and in Clifton respectively are not very helpful as these are extremely large areas.

680- While the immediate personal enablers of OBL have been identified up to the period 2004-2006 , almost nothing else has been uncovered about the wider support network which may not have been large but would have had to comprise a minimum number of dedicated persons including Pakistanis who may not have known whom they were helping. They would almost certainly be either Jihadis or people with strong Jihadi sympathies and good connections.

681- The existence of networks of Islamic militants throughout Pakistan is well known. They are relatively concentrated in certain areas, and the Hazara region was known to be one of these regions in the settled areas. OBL's broader network of direct and indirect support was most likely drawn from this pool of militancy. Specific and detailed answers to questions about the nature, composition, size and connections of the support network that enabled OBL's extended presence in Pakistan were not made available to the Commission, possibly because none of this information was available with the intelligence establishment. This again is a matter of great concern.

682- According to the Commission's findings, OBL had a support network that could not possibly have been confined to the two Pashtun brothers who worked as his couriers, security guards and general factotums. There were others including Pakistanis who provided a full array of services for OBL within Pakistan on a full time or irregular basis. Most of such people would have been loyal and dedicated enough not to ask questions or to pass on information. Some may not have been so loyal or dedicated. Over a period of time an effective intelligence agency should have been able to contact, infiltrate or co-opt them, and to develop a whole case load of information. Apparently, this was not the case.

x. Did it include personnel or former personnel of the Pakistan government including the military, intelligence and security agencies?

683- Answer: No finding to this effect can be made in view of a lack of conclusive evidence. However, given the length of stay and the changes of residence of OBL and his family in Pakistan, and the extended stay in Haripur and later in the Abbottabad Cantonment area, the possibility of some such direct or indirect and "plausibly deniable" support cannot be ruled out, at least, at some level outside formal structures of the intelligence establishment. The extent of "radical Islamist" influence in the armed forces has certainly been exaggerated by some foreign and Pakistani commentators. But it has assuredly been under estimated by senior military officials whom the Commission met.

684- Finding: No

xi. Which ministry, department or agency of the government of Pakistan had the primary responsibility for ascertaining whether or not OBL was in Pakistan, and if so, for tracking him down?

685- Answer: Intelligence Bureau (IB) and the Ministry of Interior had direct and indirect responsibility respectively for counterterrorism. But, the ISI was given effectively exclusive responsibility for all matters relating to the presence of OBL in Pakistan. This responsibility was based on administrative decisions and not on law. In reality, the formal and primary responsibility belonged to the Prime Minister's office (PMO) to which the IB and ISI both reported.

686- Finding: The ISI.

xii. Was there any intelligence sharing with the US in the search for OBL?

687- Answer: There was considerable cooperation including intelligence sharing between the ISI and the CIA with respect to hunting down and apprehending HVTs until 2005. This included exchanges of information about the possible whereabouts of OBL and the provision by the CIA of possible leads in the search for him, all of which turned out to be false.

xiii. Did the CIA share intelligence with the ISI after it got onto the track of OBL?

688- Answer: The CIA shared telephone numbers in 2010 without indicating their relevance and significance. They did not inform the ISI when they finally located the Al-Kuwaiti brothers and eventually tracked them to their residence in Abbottabad. Nor did they inform the ISI of the likely presence of OBL in the Al-Kuwaiti brothers' residence ("Waziristan Kothi") in Bilal Town. In general, after 2005 the CIA received information from the ISI but did not share the results of their analysis of the information, nor did they share the "mosaic of information" they had built up which enabled a scientific evaluation of any new information. The US had an international legal obligation to share such information with Pakistan.

xiv. If not, why not?

689- Answer: The Americans suggest they had lost confidence in the reliability of the ISI. The ISI had allegedly been "selective" in its cooperation in apprehending HVTs. Some HVTs allegedly escaped capture due to a leakage of information shared by the CIA with the ISI. The ISI denied this. The Commission was told that the US wanted the exclusive credit of eliminating OBL for itself. They wanted to isolate Pakistan and discredit the ISI etc.

690- Finding: The implicit assumption that only the CIA had the ability to find OBL in Pakistan indicated a complete lack of confidence by the ISI and the intelligence establishment in their own ability to do so. While the CIA certainly had the superior technical intelligence capabilities, the ISI was operating in its own environment which should have given it a huge advantage over the CIA. It should not have been paralyzed by the CIA's lack of cooperation including sharing of intelligence.

xv. In view of the fact that a number of HVTs were either raided or apprehended in and around Abbottabad, how did OBL's Compound, which was large and to an extent set apart with high walls and barbed wire, fail to attract the attention of intelligence and security officials over the years?

691- Answer: We have referred to the explanations that were offered. The fact that they were not very satisfactory does not of course mean they were necessarily untrue. It was said the building, contrary to reports, was neither exceptionally large nor very different from other large "Pashtun" residences in the area. The cover presented by the two Pashtun brothers was credible. Abbottabad Cantonment was an "open" cantonment where civilians were allowed to purchase and construct residences within rules approved by the Cantonment Board. These rules were routinely violated. The military security arrangements were largely limited to the military institutions and the exclusively military part of the cantonment area. The proximity of OBL's Compound to the PMA was accordingly, not as significant as it might appear. These explanations would have been more credible if OBL was a transient visitor instead of a long-time resident in Abbottabad. As noted, the Compound had several peculiar features that should have attracted attention. While the local community may not have paid much attention to these oddities, the police and intelligence officials had a professional duty to check out the background

of the somewhat mysterious and aloof Pashtun brothers, especially since militants were known to have either come into the area or to have located their families there. There was a strange absence of curiosity even among those officials whose duty it was to have basic information about residents moving into the locality.

692- Finding: It is clear that someone from the civil administration, police, security and intelligence services should have noticed, but did not notice, anything odd about the Compound over so many years. This in itself was an extraordinary example of intelligence and security incompetence and laxity at the very least. To crown it all, the OBL house was enumerated in a house survey with the comment that it was "be-chiragh" i.e. uninhabited! Since August 2005, there were never less than 25 people living in it! The extent of incompetence, to put it mildly, was astounding, if not unbelievable.

xvi. Was OBL betrayed either by his security guards or by someone within his family?

693- Answer: There has been speculation on this question. Some stories have been circulated but without any evidentiary support. However, given the inevitable stresses and strains of a large family living in fear, suspicion, extreme caution and in cramped conditions for over a decade, it would be surprising if significant family tensions did not exist. On this basis it is easy to develop hypothetical scenarios in which someone could have got fed up with the whole situation. Khairiyya had been asked to go home to Syria by OBL and spent over 7 years in Iran. The Iranians released her son Hamza, then her step son Saad, and finally herself. Any of them could have been tracked after their release. There has been speculation that one or both of the Al-

Kuwaiti brothers once tracked down by the CIA may have spilled the beans in return for some consideration. Loyalties, however fierce, have their breaking point. There could be others in the immediate OBL support network who provided vital information to the CIA network in Pakistan. The US is thought to have "water boarded" the initial information about the existence and significance of Al-Kuwaiti from a prisoner at Guantanamo Bay. There is room for endless speculation. But there is no credible evidence available to support any specific story of betrayal. Of course, this does not rule out the possibility that betrayal of some kind did occur.

694- Finding: Anything is possible. But so far, the more likely explanation is that the ISI helped the CIA to build a mosaic of intelligence and US for torture at Guantanamo and other places led the US to discover the phone numbers of Ibrahim and Abrar. These were communicated to the ISI. But ISI did not thoroughly monitor them. As a result, while the CIA got on to the trail of Al-Kuwaiti brothers which led to OBL, the ISI failed to do so.

xvii. Was OBL active and in command of Al-Qaeda operations from his hideouts in Pakistan?

695- Answer: There is documentary evidence that OBL was in communication with some Al-Qaeda leaders through the Al-Kuwaiti brothers (Ibrahim and Abrar) and their immediate Al-Qaeda contacts. But all the indications are that he no longer wielded control over Al Qaeda operations which had passed to Ayman al Zawahiri and more generally, became decentralised. OBL was in touch with the Al-Qaeda and provided a range of practical and impractical advice. As noted, he was able to communicate with Khairyya, But he apparently had no operational control of the Al-Qaeda. Given his circumstances, he could either maximize his personal security

or try to maintain active command. His refusal to remain totally passive fatally exposed him eventually.

xviii. **What were the mechanism, modality and process adopted by the government of Pakistan for determining whether or not OBL was in Pakistan and for tracking him down?**

696- Answer: It was left more or less exclusively to the ISI to deal with everything concerning OBL. The ISI had apparently set up its own cell and followed up leads that up to 2005 were provided by the CIA and other intelligence agencies. Like other intelligence agencies, the ISI presumably developed its own intelligence. At no stage it seems were the PM, the Cabinet, the DCC, the MoI, the MoD, the civilian intelligence agencies, or the provincial and local authorities actively involved or even regularly briefed. Nor did they take any active and sustained interest in determining whether or not OBL was hiding in Pakistan, and if so, where? There were apparently few if any meetings called specifically for discussions, briefings or updates on the subject. Nor it seems were any written reports asked for or submitted. The President, the Prime Minister and the Army Chief - all of whom declined to meet the Commission –may or may not have discussed the issue in their "troika" meetings with each other. No record of such meetings seem to be kept. While the DG ISI and the COAS metregularly, he hardly ever had a formal meeting with the Prime Minister to whom he officially reported. So, outside of the ISI, which had no formal mandate for counterterrorism, there was no dedicated governmental mechanism, modality or process with respect to the search for OBL. The ISI neither briefed the government leadership on the status of its information on OBL, nor was it asked to do so.

697- Finding: There was no regular and sustained mechanism, modality or process with regard to locating OBL.

xix. Apart from media reports, did discussions and communications between the Pakistani political, military and intelligence leadership and the US leadership on the specific subject of the possible presence of OBL in Pakistan take place?

698- Answer: No record of such discussions is available. The Commission was told that after 2005, all cooperation between the CIA and ISI regarding OBL ceased. The US did not respond to questions put to it by the Commission on this subject. However, since US leaders publically communicated their concerns over the suspected presence of OBL in Pakistan, the Commission does not find the assertions that Americans never raised the subject of OBL in official meetings and communication with the government of Pakistan to be credible. This is one of the many questions which the Commission would have put to political and military leaders that unfortunately were unable to meet despite repeated requests.

xx. What was the priority regarding the search for OBL?

699- Answer: The matter may have been given priority for a while after the US invasion of Afghanistan and the dispersal of the Taliban government. But later the impression in the ISI developed that the trail of OBL had gone cold, the US had lost interest and its attention seemed to have turned to Iraq. This was especially after cooperation between the CIA and the ISI regarding the search for OBL had almost ceased. The impression seemed to have developed that the US administration had effectively closed the file on OBL. A statement by President Bush

seemed to give credence to this impression. The ISI said it turned its attention towards countering domestic terrorism.

700- Finding: There was no real and sustained priority given to the search for OBL, although from time to time US leaders raised the issue in an accusatory manner and relations with the US were, to put it mildly, increasingly strained over this and other counter-terror issues.

xxi. **Several senior foreign political, military and intelligence officials had regularly alleged or suggested that OBL was being protected in Pakistan by elements of its intelligence community. Apart from denying these allegations, was any serious effort ever made to check them out? Were policy options on how to address US concerns and threats discussed among the Pakistani leadership?**

701- Answer: Apparently not. At least no record of such discussions is available. This may at best have been done on a contingent, ad hoc and uncoordinated basis. It was certainly not done on a regular, systematic and recorded basis. The fact that the country was faced with a situation of no good military options in the face of a developing US military threat was never appreciated, let alone discussed. Unplanned and reactive policies always have a narrow range of feasible policy options. Only proactive policies, based on an analytical anticipation of scenarios and proper policy planning can maximize the range of available and effective options even in difficult and unequal circumstances. These issues apparently never came up in Cabinet or Ministerial meetings. The records of DCC or "troika" meetings (the President, Prime Minister and COAS) were either not kept or were not made available. The overwhelming probability is that neither American threats nor any allegations were ever systematically checked out or discussed at any level within the government in the months leading up to the US raid on May 2

in Abbottabad. Whether they were conversationally or 'informally' discussed among the leaders is not known, and in any case would have been completely inadequate. They would not reflect any consistent will to address the situation. This was just another instance of a massive and irresponsible lack of due diligence by the de jure and de facto governmental leadership.

702- Finding: Neither accusations by foreign leaders and Intelligence officials were taken seriously, nor were there possible military implications ever seriously considered. This was unprofessional behavior.

xxii. **Was the failure to track OBL a result of negligence, incompetence or complicity at some level within the government and its security organizations and intelligence agencies?**

703- Answer: Culpable negligence and incompetence at almost all levels of government can more or less be conclusively established by the testimonies of witnesses contained in this report. But connivance, collaboration and cooperation at some levels cannot be entirely discounted. If such connivance existed, it could not have been established in the circumstances in which the Commission operated. Some degree of connivance on a plausible deniability basis outside governmental structures was possible, some would even say likely. But no evidence of this has been furnished to the Commission. Even the US has not made a charge of connivance against the government or any of its agencies. But informed individuals (including administration officials, former officials, briefed media persons etc.) who often reflect actual administration thinking have suggested connivance at some level in the broader structures of the intelligence community in Pakistan. The "treasure trove" of information that the US took from the OBL Compound has so far not revealed any evidence of connivance, although only a small fraction of the data from

the OBL Compound and none of the information gathered from the eight-month, 24/7 US aerial surveillance of the OBL Compound have been made public. To summarize, negligence and incompetence to a greater or lesser degree at almost all levels of government are clear. Connivance at no level can be established even if at some level it cannot be ruled out. Complicity is the most grievous charge that can be brought against an individual or group of individuals. No findings of this can be made. But incompetence and negligenceare the most serious charges that can be brought against any institution-especially those that have national security responsibility. A finding to this effect is made by the Commission.

Investigate the circumstances and facts regarding the US operation in Abbottabad on May 2, 2011?

Questions:

xxiii. **How was the US special operations mission to kill OBL in Abbottabad successfully carried out without any apparent detection or response by the Pakistan defence forces, especially as it involved staying within Pakistan's airspace and territory for over 3 hours, penetrating Pakistani territory up to a distance of over 100 miles, and carrying out a 35-minute raid on a residence within a cantonment area?**

704- Answer: The explanations of officials cover a number of points. The US raid was a total surprise, a "betrayal" and "a stab in the back" as the two countries were allies in a War on Terror and had together captured a significant number of HVTs which the ISI handed over to the CIA. According to the Defence Policy of 2004 and the Joint Strategic Directive of 2007 – both of which were still operative – the only designated hostile country was India. The two documents

specifically directed the armed forces to maintain good relations and avoid confrontation with the US. Pakistan's defence capabilities were designed and developed for a one front conflict situation. Despite tensions, including several border raids and differences on a number of issues, neither the political leadership nor the defence policy planners could imagine the US would actually stoop to such a low blow as they inflicted on Pakistan on May 2, 2011. On this assumption, Pakistan's air defence capabilities on the western border were deployed in "peace time" mode.

705- Moreover, there was a tremendous military asymmetry and technological gap between the armed forces of the two countries. This enabled the US to avoid Pakistan's air defence capabilities and deterred Pakistan from taking any action that risked escalating the situation beyond control. The US attack helicopters were equipped with stealth technology, night vision, sound suppression, and fast and low flying nap of the earth flight capabilities. The US intruders were backed by US AWACS and F-16 fighters across the border ready to respond to any sign of an PAF interception attempt.

706- During the killing they used silencers. The noise of the Chinooks was heard over Abbottabad but because of the Abbottabad Valley acting as an echo chamber it was not easy to detect the direction from where the sound came. It was only after the loud explosion of the destruction of the downed Black Hawk that the whole town became aware of some untoward development. By then the US mission had completed its work and had departed the scene. By the time the COAS was alerted the US helicopters were exiting or about to exit Pakistan airspace. The PAF would normally be alerted by radar detection and would scramble in accordance with its Standard Operating Procedures (SOPs.) But on this occasion the radars were unable to pick up anything for the reasons explained. The first time that the PAF came to know was when the

COAS contacted the CAS. By then any opportunity to intercept the American intruders had gone. It was a case of military and technology asymmetry.

707- In this regard there was the assertion that even if a significant US military raid had been anticipated as a possible scenario, there was little that Pakistan could have done to avert or counter it given the massive military imbalance between the US and Pakistan.

708- Finding: This is where the crucial weakness of the security mindset and planning in Pakistan showed up. While military options may indeed have been limited, non-military options including stepping up the search for HVTs, dismantling extremist infrastructures in Pakistan, preventing the use of Pakistani territory for the launching of Mujahideen attacks on occupying NATO forces in Afghanistan, diplomatic mitigation of threat perceptions, policy reviews to address US concerns without compromising national sovereignty or violating international lawetc could have been utilized to minimize the likelihood of such an anticipated scenario. None of this was done. There was no pro-active anticipatory policy or policy planning. There was only a policy to reacting to developments after they had occurred. Under these circumstances the factor of military asymmetry could not be taken account of and countered or mitigated.

xxiv. **Given that US-Pakistan relations were seriously strained over US allegations of safe havens in Pakistan, a number of previous US raids and intrusions involving loss of Pakistani military and civilian personnel had taken place, and warnings of a possible unilateral strike were publicly made by no less a person than President Barak Obama, why did May 2, 2011 came as a complete surprise?**

709- Answer: While the political relationship was strained, the situation was not considered threatening enough to warrant an expedited review of the long standing threat identification of

the Defence Policy of 2004 and the JSD of 2007. Militarily, the technology gap was decisive. US warnings, including President Obama's public warnings were amazingly discounted and ignored as being addressed only to US public opinion. One senior military official said as Obama's remarks were not conveyed in writing to Pakistan, they were not considered to be policy statements. While the military and intelligence leadership might be forgiven such a simplistic deduction, the political and diplomatic leadership had no business being so incompetent and irresponsible as to ignore such high level specific and precise warnings.

710- Finding: The Commission is of the view that these warnings were almost certainly conveyed at the highest levels even in private. The Pakistani military and political leadership displayed a degree of incompetence and irresponsibility that was truly breathtaking and indeed culpable.

xxv. **Is it official or unofficial defence policy not to attempt to defend the country if threatened or even attacked by a military superpower like the US?**

711- Answer: The PAF says it responded as soon as it was made aware of the intrusion and attack. Its radar coverage was evaded, and by the time the COAS informed the CAS about what happened in Abbottabad, it was already too late to intercept the intruders. The PAF said it gave shoot down orders to the PAF fighter pilot if they encountered aircraft flying over the Abbottabad area. Nevertheless it was acknowledged that militarily engaging the US was generally not a good option. In fact, it was specifically admitted that the PAF had limited capability to ensure that another US special operation against a HVT in Pakistan could be thwarted even with stepped up surveillance and defence resources in place. All Pakistan could do was to respond with unspecified diplomatic and political measures in the event of a repetition of

May 2, 2011. Even such measures would be limited by the inevitable need to limit diplomatic escalation with the US, as the subsequent Salala incident clearly demonstrated.

712- Finding: There was an overall policy bankruptcy for which the political leadership was ultimately responsible although the PAF and military leadership also share responsibility. Submission to a military threat or military aggression from a militarily superior power without military resistance, whatever the military costs, has existential implication for Pakistan.

xxvi. **Did the PAF radars and air defence system completely fail to pick up the US helicopters at any time during whole period in which they flew in and flew out of Pakistan airspace?**

713- Answer: The radars were neither jammed nor switched off although they were reportedly in a mode of "rest" since it was not economical to have them permanently switched on the western border, especially when defence deployment was in "peace time mode." The Commission flew the route supposedly taken by the American helicopters and visited the Air Defence Command Center, Chaklala. There was apparently no compelling evidence to conclude that any non-routine pattern of aircraft movement was picked up by Pakistani radars in the vicinity of the border on the night of the raid. Moreover, none of the helicopters flying in and out of Pakistan were picked up by the radars. There were reports and even the testimony of a very senior former PAF officer that some of the radars did in fact pick up unusual activity across the border and that the PAF had not made all the defence preparations on the west which could have made it much more difficult for even so-called stealth helicopters and low flying terrain-hugging techniques to completely escape detection by a properly planned and deployed air defence system which should not have been in peace time mode because of the developing threat on the Western

border. There were F-16s and an AWACS flying close to the border ready to respond to any PAF reaction. This was picked up by PAF radars but was not seen as a non-routine pattern of US aircraft along Pakistan's border. For counter terror air operations inside Afghanistan, an AWACS would be unnecessary. May be this should have been seen as non-routine air activity across the border and communicated as such to Air Defence Command.

714- Finding: The Commission was unable to obtain any conclusive evidence to support a finding of non-routine air activity despite the cogency of argument to the contrary. With regard to the criticisms of air defence planning that were brought to the attention, the Commission finds merit in some of the criticism but not in all of them. Even it was unfair to suggest the PAF was "asleep" on the job, it certainly should have done a better job in providing its inputs for overall defence planning.

xxvii. **If US technology and flying techniques made it impossible for Pakistan's air defence to detect the US mission, why was there such a feeling of despondency and failure in the PAF after the incident?**

715- Answer: There seemed to be some suspicion among PAF personnel that the PAF for some reason deliberately took no action against the intruders, possibly in response to some kind of communication from the US to the Pakistani leadership. The PAF leadership took measures to allay any such misgivings by providing a technical briefing to PAF personnel who were affected by the bitter media criticism of the Pakistan defence forces, especially the PAF, in the immediate aftermath of the incident. Moreover, the PAF leadership told the Commission that there was no way to edit out or suppress radar tracings of unusual activity, or to act on a directive not to

respond to a foreign attack without the information becoming known to PAF personnel who would have reacted very strongly.

xxviii. **Did the US at any time and at any level get in touch with the Pakistani political or military leadership before or during the raid to ensure against a military response from Pakistan which could have resulted in the loss of life and aircraft and an even more serious political crisis between the two countries?**

716- Answer: This has been answered by the PAF in negative. There were widespread rumours and many well informed and well-connected persons with PAF backgrounds who privately alleged that a communication was indeed received because there was always the possibility of something going wrong during the operation (and something actually did go wrong with one of the helicopters.) It was, accordingly, considered important by the US to engage in political damage control in advance. As mentioned, this has been strongly denied by all the senior PAF officers the Commission met. It is possible to understand if not agree with the US decision to unilaterally implement its special operations mission. But it is much more difficult to understand the rationale for it not sending any communication to Pakistan at any time before or even during the operation in view of the inherent and irreducible risks of detection by the Pakistan air defence system, and the US political imperative to minimize any risk of capture or injury to its Navy SEALs. However, the Commission was not presented any conclusive evidence of any communication from the US warning Pakistan of either an imminent or ongoing operation. More importantly, the leaders at the helm of affairs, who were in a position to provide the most reliable information did not meet with the Commission which would have put questions on this and other unanswered questions directly to them.

717- The PAF apparently received its first information about the incident at 0207 hours on May 2. The US helicopters apparently arrived at the OBL Compound in Abbottabad between 0030 and 0040 hours. The blast destroying the downed helicopter was at 0105 or 0106 hours. It still took one hour for the CAS to be informed by the COAS, by which time it was too late. In fact before the blast, one Chinook and one Black Hawk were circulating around Abbottabad valley for around half an hour before they returned to the Compound on the completion of the kill and search mission. Given the time of 90 minutes between the arrival of the helicopters over Abbottabad and the blast of the destruction of the crippled helicopter, it is surprising that no one brought the matter to the attention of the military Command, especially as it was known that Pakistani helicopters seldom, if ever flew at night. Why was the garrison not aware something serious was taking place until it heard the blast? Why was the CAS not directly informed about helicopters flying at night over Abbottabad? Why did he have to first learn of the incident from the COAS?

718- Both the US and Pakistani governments denied any collaboration or prior understanding regarding the raid. Admiral Mullen's phone call to the COAS at 0500 hours on May 2 was said to be the very first US communication to Pakistan on the subject. Nevertheless, as indicated there is room for some skepticism on this issue. Minimizing the risk for the US Navy SEALs was an obligation of the US military and of the US President. In fact, the US Attorney General in trying to legally justify the killing of an unarmed OBL argued that no possible risk to the lives of the SEALs could be entertained. There would have been a far greater risk to the safety of the SEALs had the armed forces of Pakistan detected their intrusion and tried to intercept it at any stage of their mission in Pakistan which lasted more than 3 hours. Despite the technology advantage, this

risk could not be eliminated unless some prior communication from the US requesting non-interception was received.

719- Finding: Nevertheless, there was no conclusive evidence made available to the Commission that would support a finding of prior communication although there have been unsubstantiated reports to the contrary. If indeed contact was made it is likely to be revealed at some time in the future when there is lesser risk of further destabilizing the bilateral relationship and the government in Islamabad.

xxix. **Was Pakistan at any time offered the option of a joint operation against OBL as had been the case with the apprehension of previous HVTs?**

720- Answer: Both governments deny this. However, there were some speculative reports in the weeks after the raid which suggested this possibility.

721- Finding: No evidence warranting any such conclusion has come to light.

xxx. **Was there a CIA network of ground support for the location of OBL and for the US operation to kill him?**

722- Answer: There were in all probability a fairly extensive networks. One network would have been for the location of OBL's hideout, and another would be to confirm whether or not he was actually hiding there. There were several reports of OBL's sighting on Pakistani territory up until 2005 and both CIA and ISI personnel checked them out together without success. So there was already a known CIA network on the ground in Pakistan which was built up since 9/11. Given the knowledge of such a CIA network in Pakistan it is all the more surprising how the ISI assumed the CIA had closed the file on OBL. However, with the decline and effective end of

cooperation between the CIA and the ISI in the search for OBL in 2005, the Pakistani authorities lost control over the entry of Americans into Pakistan. The DG ISI protested against the uncontrolled influx of Americans of unchecked backgrounds. But to no avail. Ambassador Haqqani may have issued more visas than he should have. But most of the CIA infiltration took place under the guise of NGO personnel like USAID etc. There was almost certainly also a subsequent and separate network of CIA personnel, recruits and possibly unwitting Pakistani accomplices to facilitate the killing operation itself. The vehicles that emerged from the US Embassy in Islamabad on the evening before the raid and which were seen heading in the direction of Abbottabad before they were lost sight of along with later reports of similar vehicles seen in Abbottabad close to the OBL Compound lends further credibility to this supposition. Some of the neigbours spoke of individuals telling them in Pashto and Urdu to stay indoors and/or away from the Compound as a security operation was underway. There were reports of the community being told a day before to stay indoors, and of school children not going to school. The cutting of the trees next to the boundary wall of the OBL Compound was also, according to some, meant to facilitate the approach of the helicopters. There were also reports of a CIA safe house in the immediate neighborhood.

723- Dr. Shakeel Afridi was of course part of the CIA effort to confirm the identities of the residents of the OBL Compound. It seems clear that the CIA did have ground support before and during the operation. More importantly, the ISI had no idea despite the fact that much of this ground support would have been in place much before May 2. Even after the incident, very little has emerged regarding any of the two support systems: the support network for CIA operations, and the support network for OBL's extended stay in Pakistan. Too many questions remain unanswered. Why were the trees cut and who cut them? Was there a safe house? Who kept the

public from entering the house when the helicopter crash landed, etc. etc.? All this once again added up to a major intelligence failure to develop adequate information regarding the CIA network of support, which certainly existed, both before and during the incident. The US has not been concerned to deny the extensive CIA network it had developed in Pakistan. After the May 2 incident the government of Pakistan sought to significantly reduce the number of CIA personnel in Pakistan, whatever their guise.

724- Finding: While the ISI has failed to disclose specific details of extent and nature of the CIA networks that were in place for the location and killing of OBL, the existence of these networks is not in doubt. The DG ISI frankly told the Commission that Pakistan had become "too weak" and dependent on the US to take necessary actions to defend itself against the US policies.

xxxi. **Was there a safe house set up by the CIA in the neighborhood of the OBL Compound?**

725- Answer: Unfortunately, this is another instance of the ISI failing to confirm or locate what was almost certainly a fact, i.e. the existence of a safe house in close proximity to OBL's Compound. Since the house was not specifically located and shown to the Commission, this is a conclusion that has to be drawn despite less than one hundred percent certainty. US accounts, the testimonies of witnesses from the neighborhood and the informed opinions of military personnel, as well as the ISI's acceptance of its likelihood leave little doubt about its existence. Whether it was the same house that was rented for the fake vaccination program conducted by Dr. Shakeel Afridi or it was another house rented by an NGO fronting for the CIA is not certain. Even the house of Shamrez cannot be ruled out as a possible observation post for CIA personnel seeking to confirm the presence of OBL in the neighboring residence. Reportedly President Obama was

not ready to give the go-ahead for the mission unless ground intelligence confirmed a very high degree of probability that OBL was actually there.

726- Finding: Despite the absence of conclusive evidence, the strong probability is that a CIA safe house was established in Bilal Town which had a direct line of sight to the OBL Compound.

xxxii. How did the ISI and other civil and military intelligence agencies completely miss both the OBL and the CIA support networks?

727- Answer: The usual explanations of low profile, minimum signatures, a dedicated if small scale support network, excellent cover and clever choice of location are offered with regard to the presence of OBL and his family. As for the CIA network, it is apparent that apart from the ISI protesting the loose visa regime which had over the past decade contributed to its spread, none of the other political, security and intelligence agencies had the knowledge, the will or the authority to combat the spread of CIA's tentacles all over the country. So the extent to which the support network for OBL was genuinely "missed," ignored or possibly facilitated by rogue elementswhich were directly or indirectly associated with the security / intelligence establishment, cannot be determined with any confidence in the circumstances in which the Commission operated. As for the CIA network, there was culpable negligence and incompetence. As for connivance, it has not been established at any level as mentioned. Although, the possibility of some degree of connivance inside or outside the government cannot be entirely discounted, no individual can be identified as guilty of connivance.

728- Finding: It was probably more a case of negligence, inefficiency and incompetence rather than complicity. But for an institution such as the ISI, negligence and incompetence are far more serious charges than possible connivance by rouge elements.

xxxiii. **How was the CIA able to set up an extensive network in Pakistan not just to track OBL but very likely to secure other vital intelligence affecting the defence and security interests of Pakistan?**

729- Answer: This question has been covered by answers to previous questions. But it is correct to say that while the Commission's mandate is confined to issues related to the May 2 incident, it cannot but note that the establishment of a parallel and more effective CIA intelligence network in Pakistan has rendered the country's national security fragile, vulnerable and uncertain.

730- Finding: This has been a case of nothing less than a collective and sustained dereliction of duty by the political, military and intelligence leadership of the country. This is a devastating but unavoidable finding on the performance of the entire national leadership.

xxxiv. **While India may be the primary and permanent threat to Pakistan, why was it in effect considered the only possible threat to Pakistan's security, especially in view of the volatile relationship with the US, including its threats and several border raids against Pakistan's forces on the west?**

731- Answer: This question has been partially addressed. There was no National Security Policy. The Defence Policy of 2004 emanated from a non-existent National Security Policy which was one reason why it was so inadequate. The Joint Strategic Directive derived from an almost unchanging Defence Policy. From a Pakistani strategic doctrine point of view, the world stood still for almost a decade. The reason for this state of affairs was that policy has been made "on the hoof" i.e. as events happened. The fact was that the people of Pakistan, according to several international and national polls over the past decade, regarded the US, correctly or incorrectly, as a much greater immediate threat to Pakistan than India. Despite a growing

American threat including actual border raids, drone strikes, special operations, the spread of a hostile spy network, public and private warnings of the limits of American patience with Pakistan's alleged support for militants attacking American soldiers in Afghanistan, etc. All of this was systematically ignored or discounted even when explicit threats were communicated by President Obama. So India, and not the US, remained the focus of our security planning even when the western border had become far more immediately threatening than the eastern border. Needless to say, the eastern front deserved the necessary security attention in view of the history and state of Pak-India relations – but it should never have been at the expense of the far more immediate, if lesser threat that had emerged on the west, especially after 9/11, and more especially after the American invasion and occupation of Afghanistan, and its threatening chant of "do more" to Pakistan.

732- Finding: This was because threat identification process was conducted on a more or less exclusively military and non-scientific basis instead of a comprehensive national security basis.

Determine the nature, background and causes of lapses of concerned authorities, if any.

xxxv. **Did the US raid on Abbottabad on May 2, 2011 represent a major failure to protect the sovereignty, territorial integrity and independence of Pakistan?**

733- Answer: As a result of US raid on May 2, 2011, the country was seen by its people as unable or unwilling to defend itself against a threat that should have been anticipated and might very well have been averted through more responsible governance, national security planning and diplomacy. The US military action was not inevitable. While the US is exclusively responsible for the policies it chooses to implement, it is also the case that an awareness of the

increasingly criminal and pathological nature of US policies would have enabled Pakistan to avert or minimise its adverse consequences.

734- Finding: Yes.Because of the policy shortsightedness of the Pakistani political and military leadership, the events of May 2, 2011 were the greatest humiliation visited upon the country since its break-up in 1971.

xxxvi. Was this failure avoidable?

735- Answer: The build-up of American aggressiveness and hostility towards Pakistan were noted but their policy implications were simply not dealt with seriously. This in no way justifies American actions. But there are other countries in the region that are in fact faced with even graver threats from the US. They are skillfully seeking to minimize worst outcomes through a range of military, economic and diplomatic options without compromising their policy principles and perceived national interests. They may or may not be successful. But they are not guilty of any dereliction of duty in the face of such threats. No such leadership skill or responsibility was in evidence in the build-up to the American assault on Abbottabad. All the political and military disasters that have befallen of Pakistan could have been avoided through more responsible governance in the service of the people rather than in the service of irresponsiblerentier elite. Technical and policy specific flaws happen in every society. But they do not normally add up to disastrous national outcomes unless the fundamentals of good and participatory governance have been missing for several decades. This has been the case in Pakistan.

736-Finding: Yes, if there was a willingness to recognize the developing threat and a determination to avoid the worst possible outcomes through the use of a broader range of policy options.

xxxvii. Was it a professional and technical failure or a policy and leadership failure?

737- Answer: As recorded in the Commission's report, there were many individual performances that merited disapproval and strictures, and there were many institutional capacity constraints and resource limitations. There was a general lack of due diligence by responsible individuals and insufficient consultation and coordination between institutions. But all of these should not have added up to systemic failure. They did so only because of a consistent and cumulative lack of good governance which itself was rooted in grossirresponsibility that was widespread among highest levels of political and government leadership. Tragically almost every government in Pakistan has inherited this legacy of irresponsible governance from its predecessor. Decent leadership may not immediately reverse deep rooted trends or quickly resolve complicated and long standing problems. But its absence most certainly exacerbates them. It minimizes the possibility of effectively addressing deficiencies in institutional and individual performances. Its costs are cumulative and eventually overwhelming. A stage comes where the disease becomes irreversible. At that stage, mere survival is considered an indication of "resilience."

738- Finding:The events of May 2, 2011 were an outcome of professional and technical failure up to a point. It was far more a result of policy and leadership failure which provides the environment in which the policy decisions are taken at every level below it.

xxxviii. Can the failures, shortcomings, lapses, incompetence, etc. of relatively junior officials with limited responsibilities cause major national security failures?

739- Answer: Only up to a point. They can have a cumulative impact that is damaging on a national scale. They need to be addressed through a range of corrective and enabling measures. They also need to be addressed in a political, security, administrative and above all, governance

environment that is conducive to institutional reform and improved individual performance. None of these can happen without minimally competent and dedicated political leadership, whose priorities are rooted in the interests of the people.

740- Finding: The shortcomings at the lower, local and provincial levels of the bureaucracy taken together certainly contributed to the creation of the conditions that facilitated both the extended stay of OBL in Pakistan and the failure to detect CIA activities in support of the military raid on May 2, 2011. But they were not the primary causes of the national tragedy.

xxxix. Can the political, military and intelligence leadership be absolved of responsibility for a national security failure?

741- Answer: In any systemic failure, it is the leadership of the major policy making and decision making institutions who are far more accountable than subordinate officials. A political or military leadership that exempts itself from such accountability cannot and will not defend or serve the vital interests of the country.

742- Findings: No. The political, military, intelligence and bureaucratic leadership cannot be absolved of their responsibility for the state of governance, policy planning and policy implementation that eventually rendered this national failure almost inevitable.

xl. Was May 2, 2011 a stand-alone failure or was it part of a series of national security failures proceeding and following it?

743- Answer: May 2, 2011 was the worst failure since 1971. But it was not a stand-alone failure. It was tragically a symptom of a much deeper national malaise that has ensured national humiliations and setbacks at regular intervals from which few if any lessons have been drawn.

The malaise, to put it bluntly has been the refusal of the ruling elite to see Pakistan as an independent value andoverriding priority in itself. Instead, the policy and decision making elites have tended to see Pakistan as an instrumentfor the gratification of personal, group, institutional and power interests. These interests have systematically taken priority over the national interests. At times, these interests have been falsely equated with the national interests.

744- Finding: May 2, 2011 was not a stand-alone failure. It did not represent an exception to the rule. It was the rule.

xli. What is meant by May 2 being a "national tragedy"? Does this refer to the killing of OBL in Pakistan?

745- Answer: It refers to the illegal manner in which he was killed along with three Pakistani citizens and, far more importantly, it refers to the American act of war against Pakistan on May 2, 2011 and its contemptuous disregard of Pakistan's sovereignty, independence and territorial integrity in the arrogant certainty of its unmatched military might. The US acted like a criminal thug. But above all, the tragedy refers to the comprehensive failure of Pakistan to detect the presence of OBL on its territory for almost a decade or to discern the direction of US policy towards Pakistan that culminated in the avoidable humiliation of the people of Pakistan.

746- Finding: It did not refer to the killing of OBL even though he had admirers in Pakistan. It referred to the comprehensive failure of Pakistan's policies on several fronts.

xlii. Would it be credible for the Commission to reach a conclusion that for lack of a "one hundred percent hard evidence" no institution or individual can be held responsible and accountable for the political, military, security and intelligence failures that culminated in a night of shame on May 2, 2011?

747- Answer: There is a difference between a Commission of Inquiry and a trial court which determines the guilt or innocence of an accused. For the latter, the burden of proof is much higher. "Incontrovertible evidence" is required, whether it is direct or circumstantial. For the former, the balance of probability for which credible reasons must be provided, is sufficient to make a finding on the basis of which further legal or political action can be recommended. That is why it is vital to know the political environment in which a Commission of Inquiry operates and tries to discharge its mandate.

748- Finding: No, it would not be credible to cite the lack of "one hundred percent hard evidence" as a reason not to identify personal and institutional failures that contributed to May 2, 2011.



Chapter 31 Recommendations

749- There are specific issues on which the Commission believes recommendations need to be made. However, there are larger systemic issues which need to be urgently addressed if actions on specific issues are to be possible or have any impact on the environment which directly led to the national shame of May 2, 2011.

Review of Existing Systems and Procedures

750- The Commission found that most of the governmental systems and procedures were in need of review and revision and were also not being properly followed. Government officials were transferred and rotated very frequently without being allowed an opportunity to settle into their jobs. This had a negative impact on the working of their departments. Merit based systems were not followed as a result of political interference. Very often heads of departments were arbitrarily appointed political favourites whose priorities were maintaining the goodwill of their benefactors instead of the efficiency of their departments and the welfare of the personnel of the department. Accordingly, in the context of the events leading up to the May 2 incident, a thorough review should be undertaken of the existing systems of land purchase, approval of house-plans, collection of revenue, monitoring of the activities of foreign NGOs and foreign personnel, etc. This will require merit based systems for the appointment of personnel. It will require proper training and incentives (and punishments) for the maintenance of adequate staff morale and administrative standards. The reduction and elimination of political interference is essential because, along with corruption, it is "poison" for administrative institutions and systems. Such measures are indispensable to raise the level of confidence of the ordinary citizen in the just functioning of the government. Today this confidence is near zero and the common man is reduced to seeking the consideration of influential patrons for any semblance of justice. No national development or human security will be possible under these circumstances. And yet this state of affairs struggles to receive any attention from those who are responsible for it.

Addressing Capacity Issues

751- Most departments whose heads and personnel were interviewed by the Commission said they were facing capacity shortfalls in terms of shortages of manpower, transport, equipment,

training and skills. The practice of arbitrary political firing and re-hiring of personnel by succeeding political governments added to the problems of irresponsible and poor governance without a thought for the people who depended on the provision of basic services of a minimum quality and reliability. Military governments, of course, tend to replace senior civilian personnel with active and retired military personnel which may address some shortcomings in the short term but inevitably create further problems for institutional development, civilian capacity development and good governance over the longer run. In the context of the May 2 incident the shortcomings and capacity challenges of the IB and Police were most apparent. They were the victims of a vicious circle. They were not provided the priority and resources to meet their requirements to perform credibly and satisfactorily in the tasks for which they were supposed to be trained, and because of their lack of performance they were pushed aside by more powerful and favoured institutions that were trained for other tasks and not for the tasks they took over from the Police and the IB. This vicious circle remains unaddressed because of leadership inertia and political interference in the working of almost all civilian institutions of the government. The Commission therefore recommends that all governmental departments in general and the Police and the IB in particular must be provided the minimum resources, general education, professional training, equipment, functional independence under competent and neutral oversight and, most importantly, freedom from institutional hegemony and political manipulation. Otherwise they will never even begin to provide the service that they are quite incapable of providing today. Moreover, the Ministry of Interior must be further strengthened to perform its assigned tasks in accordance with the Rules of Business, especially in a time of crisis, such as the Abbottabad incident. Had the various departments been enabled, even within the resource constraints of a developing economy, and given the professional space to perform according to


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normal expectations, it might have been much more difficult for OBL and his family to remain undetected for so long "in plain sight" in Abbottabad. Here it would be only fair to emphasize that those military institutions that had either taken over the functions of the Police and the IB or had prevented them from performing their duties, cannot escape their share of responsibility for this failure, especially as the scene of the US assassination raid was located in an open military cantonment area. Above all it needs to be stressed that systemic failures are not abstract phenomena. They are concrete outcomes and the product of acts of commission and omission of specific individuals and institutions who usurp specific responsibilities that are not theirs.

Intelligence Coordination

752- In Pakistan there are more than eight intelligence agencies including ISI, Military Intelligence, Air Intelligence, Naval Intelligence, IB, FIA, Special Branch, CTD, and Police, which carry out intelligence operations. There is no coordination mechanism to build up information maps and intelligence mosaics from which new leads and investigation options can emerge to enable the success of intelligence operations. There is a Joint Intelligence Coordination Committee at the Joint Services Head Quarters level which meets regularly. But this is a military body comprising the three services intelligence agencies and the ISI. No civil to civil intelligence nor any civil-military intelligence sharing and coordination exists other than at a personal level on an irregular, unorganized, and non-institutionalized basis. Similarly, at the field level, there is only sporadic and unstructured consultation and coordination between the civil administration and intelligence agencies. There is a palpable reluctance to share information with sister agencies. This is understandable up to a point since each intelligence agency has its own tasks, work culture, perspectives and priorities. But, as suggested, beyond a point this "stove pipe" approach to intelligence collection and assessment hinders the development of a

meaningful and broader intelligence picture for decision making. There needs to be an entity to bring synergy to the efforts of these diverse intelligence agencies. Civilian, and more especially parliamentary, oversight of the working of the intelligence community is essential for the democratic process and for informed discussion and legislation. It is also essential to ensure that intelligence agencies do not overstep their mandate. A workable mechanism for intelligence sharing needs to be created, such as the Department of Homeland Security in the US. There are a number of reports that have been written, including the Air Marshal Zulfikar Ali Khan report and recommendations to re-design our intelligence system and make it more effective. The Commission therefore recommends that these reports be studied as part of an effort to formulate and implement a set of reform proposals to improve the working of the intelligence community, both in terms of effectiveness and respecting human rights and the rule of law. Unless this happens, relations between the intelligence community and the people will remain adversarial and counter-productive. Instead of Pakistan making the transition from a dysfunctional security state to a functioning development state it will run the risk of becoming further degraded to an intelligence and police state.

Security agencies

753- There is an urgent need for the scrutiny of the power and mandate of security agencies, the laws under which they are supposed to work, the nature of oversight and accountability mechanisms, the substance of Pakistani "contracts, pacts and understandings" with other countries in areas of joint operations and intelligence sharing. The Intelligence Bureau which has counter terror responsibilities told the Commission that "it did not interfere in military matters" and "national security was exclusively a military matter." Hence it played no role in the search for OBL. The problem was apparent: none of the intelligence community, including the premier

intelligence organization which is the ISI, have ever been subjected to proper accountability procedures. It is a law of nature that under such circumstances institutions degenerate and progressively lose competence. This has happened in Pakistan. This will need to be addressed if the political leadership can summon the will to do so. In the words of a major Pakistani human rights activist "unless there is a political initiative in this regard, no technical, administrative, procedural or other reforms of the military/intelligence system can happen." The Commission endorses this view.

Providing Legal Cover for Intelligence Agencies

754- This is a controversial issue. Intelligence agencies made the point that the solution to legally unauthorized detentions was to extend legal cover to the detentions rather than to refrain from them. However, it is the view of the Commission that in general intelligence agencies or other unauthorized institutions must not have the right to detain citizens without specific judicial authority for each detention. Pakistan's experience has shown that unregulated discretion in this respect leads to gross human rights abuses as the "missing persons" issue has demonstrated. The excuse that this is the only way to counter terror is an unacceptable response. Counter terror has to be pursued within the rule of law and with regard to the priority of respect for human rights. Otherwise, it defeats its purpose and generates increased rather than reduced extremist and terrorist responses. Needless to say coordination between civilian and military intelligence agencies, and between the intelligence community and the police are essential to an effective counter terror policy. In the Pakistani context, it is also necessary to insist that without the de-politicization and professionalization of the police this will not be achieved, and the militarization of counter terrorism policy will remain the norm, despite its significant

shortcomings. Politicians who effectively impede police reforms need to be thoroughly exposed and removed from the political process.

Civilian Control

755- All aspects of National Policy must be formulated and implemented under representative civilian control, including defence and security policies. They need to be formulated as part of a transparent political process and implemented through public oversight and accountability procedures. Otherwise, national policies will not be owned by the people and, as a result, will not serve the interests of the people. It is the long standing deviation from this fundamental principle of good governance that resulted in Pakistan losing its eastern wing more than 40 years ago and which has ensured continuing instability, insecurity and the disempowerment and alienation of significant segments of the people of Pakistan to this day. For example, from an elitist and security / intelligence point of view the whole issue of Baloch alienation is a problem of external interference and subversion. The Baloch don't count except as suspected agents of foreign forces. The real reasons for Baloch alienation are ignored and the problem is left to fester forever. Rhetorical sympathy and practical indifference continue to poison the body politic of Pakistan. Brutal and ignorant policies that tore the country apart 40 years ago continue unchanged today.

756- The leadership, the political process, popular movements and adequate policy templates must combine to ensure the rapid emergence of competent and representative civilian control free from the hegemony of dominant institutional and class interests. These interests without fail end up serving external benefactorsinterests in place of the people's own priorities. May 2, 2011 was just one instance of this national pathology. Any deviation from the principle of civilian control is accordingly tantamount to an act of treachery towards the Constitution of Pakistan.

Competent and Committed Civilian Leadership

757- There is the general view that Pakistan has suffered from a lack of honest, educated and committed civilian leadership at the highest levels of governance, which is one reason for the regular deviations from the principle of civilian control. Like most false statements, this is partially true. But one reason why civilian governance has deteriorated rather than improved over recent decades is that it has been forcibly displaced, constrained and rendered irrelevant. Another objection to the argument against civilian control is that whatever short-term and temporary advantages of more disciplined non-civilian rule, it inevitably leads to a fatal weakening of the foundations of good governance and the rule of law. Nevertheless the argument justifying departures from civilian control despite being flawed, does point to the truth that farcical democracy, i.e. democratic form without democratic substance, leads to criminal mis-governance in the name of civilian and democratic control. Only an aware, active, organized and mobilized citizenry and civil society can ensure progressive movement to participatory and substantive democracy that is based on civil control, the rule of law, human rights, equity, etc. all of which are essential constituents of the traditions of Islamic governance. Otherwise, defeats and humiliations like May 2 will regularly recur, threatening the very viability of the country itself.

Review of Higher Defence Organization (HDO)

758- During the course of the Commission's interactions with Secretary Defence and former Chairman Joint Chief of Staff Committee, both had emphasized the need for a thorough review of HDO in Pakistan, and making JS Head Quarters more effective and potent by suitably empowering it. The Commission understands that there are different models of HDO that are practiced in the world, like the British Chief of Defence Staff system, or the US Chairman Joint Chief of Staff system, wherein the British CDS and the US Chairman enjoy all the powers of

conducting war, unlike Pakistan's Joint Chief of Staff Committee (JSCS) system, where the Chairman is more of a coordinator. Importing one such system and introducing it in Pakistan may not be a prudent approach given the operational culture and services environment of the armed forces in Pakistan. In the Commission's considered view, the military establishment needs to examine the reasons as to why our current HDO has not been able to deliver as intended, and initiate remedial measures. It is the Commission's view that the JS Head Quarters lost lot of space/clout during the military regimes, when the COAS was also the President of the country. This naturally undermined the coordinating role of the JS Head Quarters in the process. As a starting point, correcting those wrongs will be helpful, and if the system continues to suffer, only then a more radical shift may be in order. It is therefore recommended that a tri-service committee with a senior representative from MoD be constituted to carry out a thorough review of the current HDO system in Pakistan, and recommend measures for the consideration and approval of the elected government.

Civil-Military Relations

759- Civil-Military Relations are a key issue in the governance and the future of Pakistan. In the words of one Pakistani author, "Any project of sustainable democratization in Pakistan will have to contend with the institution of the military, socialized as it is in the exercise of power and governance." [18]This is the state of Pakistan's reality and its misfortune. It must not be considered unchangeable. It is both the cause and the product of political and governance failure as well as political aggrandizement by dominant institutions. The same author refers to "the poverty of the concept of the military as a modernizing agent" in contrast to a widespread perception in the military that it is the only modern institution of the country and as such more competent than

[18] Aziz Mazhar, 2008, Military Control in Pakistan, Routledge : Abingdon Oxon, p. 101.

civilian and political bodies in matters of administration, governance and performance. The British constitutional concept of civilian supremacy as a core element of democratic governance is seen by many soldiers (and non-soldiers) as at best an aspiration which does not fit the current realities of the governance requirements of Pakistan. In the military's "Green Book 2000" editorial, the view was expressed that "Gone are the days when the sole role of the Army was limited, either to invade or beat back the attackers...Geo-political and geo-strategic regional compulsions of South Asia have made the revision and redefinition of the Pakistan Army's role a necessity." This is a view that is intellectually, politically and morally bankrupt and is, in fact, a cover for a "comprehensive attempt to occupy the public sphere." The reality is that "militaries all over the world are incompetent to handle affairs outside their domain." This is a view that the very best generals have always supported. In fact, "political" generals have seldom won the professional esteem of their brothers-in-arms. Since the end of the Musharraf military dictatorship there has indeed been a military retreat from the public sphere. But given the current public perception of the utter degradation of civilian political governance and the historical alternation of military and civilian governments in Pakistan, the revival of the military's "green book" ideology remains a constant threat. To move beyond this vicious circle which has impeded the development of good governance in Pakistan, it is essential for the democratic dispensation in Pakistan to progress beyond the current "formal and procedural" stage to a much more "participatory and substantive" stage i.e. from "a mockery of democracy" sanctifying elite irresponsibility to something approaching "the reality of constitutional and law based democracy." This will take effort, perseverance and time. Above all, it will require honest, competent and consultative leadership of the kind that mobilized the people and created the Pakistan Movement and led to the achievement of Pakistan. That leadership, effort and

perseverance has been denied Pakistan for several decades. As a result, bare survival has come to be regarded as an acceptable measure of political "resilience" and success. The survival, stability and future of Pakistan cannot be assured on such a cynical basis.

Parliamentary Control

760- Pakistan is constitutionally a parliamentary democracy. But tragically, the quality of parliamentary procedures, discussions, oversight, policy scrutiny and in general acting as a constraint on executive arbitrariness has been disappointing. Except for a few distinguished exceptions there is the perception that parliamentarians, including Ministers, have been more distinguished by their venal qualities than any education, due diligence or competence in the discharge of their solemn duties and the issues they were required to oversee and make serious proposals and legislation for. The Ministers and parliamentarians often believed they made up for their disabilities by being "representatives of the people". In truth, they were far more frequently advocates of policies that were completely against the interests of the people. Whenever Parliament made serious and well considered proposals for the guidance of the government, for example with respect to US-Pakistan relations in the aftermath of the Abbottabad and Salala incidents, there was no follow up and the Executive effectively ignored them. This situation needs to radically change if civilian control and democracy are to develop in Pakistan.

Performance of the Intelligence Community

761- The National Assembly and Senate should set up an experts committee to look into the performance of the various civilian and military intelligence agencies to assess their work

culture, their achievements and failures, their mandate and organization, their accountability, parliamentary oversight, etc. and make appropriate recommendations consistent with civilian control and national security. In particular, the failure of the intelligence community with respect to developments preceding and following the May 2 incident needs to be thoroughly looked into. The excessive powers and non-accountability of the Pakistani intelligence establishment has posed the greatest threat of state failure to Pakistan. The progressive alienation of a very large segment of Baloch opinion from the idea ofPakistan is a direct consequence of excessive powers and non- accountability with which the security and intelligence establishment has been allowed to operate in Balochistan.

Agreements, Understandings and Meetings with Foreign Officials

762- Since September 11, 2001 there have been reports of several unwritten understandings whereby matters of the utmost sensitivity pertaining to the security of the nation have been entered into without any parliamentary discussion or authorization, and often without even the knowledge of the Ministry of Foreign Affairs. For example, the US drone attacks of Pakistan are reportedly based on verbal understandings between former President Musharraf and President Bush. This practice has to be brought to an immediate end if Pakistan is to be anything more than a banana republic. All meetings and conversations between the leadership with leaders of other countries need to be formally recorded and minuted for the institutional memory of the government, for future legal reference and for archival and research requirements. The totally unacceptable practice has developed in Pakistan over the past decade of not recording details of meetings - including telephone conversations – between senior officials, especially the President and the Prime Minister with their foreign counterparts. The conversations between senior most military officials and their foreign counterparts, if recorded, are seldom if ever made available to

civilian bureaucrats and certainly not to public representatives even in the proceedings of concerned parliamentary sub-committees. A country whose leadership does not even record its meetings with foreign leaders on the most sensitive subjects is a country that simply does not take its vital interests seriously. Of course, everything cannot be made public, but to develop a habit of not recording anything is symptomatic of very sick governance. This was not always the case in Pakistan. It must cease to be the case in future.

Threat Assessments and Identification

763- The current Defence Policy and Joint Strategic Directive have to fall within the framework of broader policy formulations which may include a National Security Policy. But even a National Security Policy would need to be contained within an integrated National Policy which commands a national political consensus of support. The current DP (Defence Policy) and JSD (Joint Strategic Directive) modality is a reflection of the military hegemony over the formulation of National Security Policy (in unwritten form) which despite token civilian bureaucratic inputs effectively excludes serious civilian input. It is simply not the business of the military and security establishment to designate specific countries as hostile or friendly. That is quintessentially the prerogative of the political process and the elected civilian political leadership in consultation with other constituents from the political process and from specific ministries. The violation of this democratic procedure was one reason for exclusive vigilance towards a border from where there was no immediate threat perception and a blind eye towards the western border from where a developing threat was palpable if not certain. As a result, no "pro-active" policy planning took place and we were left in our usual reactive policy mode in which policy options in a crisis are close to zero.

National Security Policy for Pakistan

764- Pakistan must approach the formulation of national security policy as a democratic development state that is dedicated to the welfare and rights based security of its people. Seen as such, national security is a far broader concept than just military or defence security. While the physical defence and security of the state is a pre-condition for the survival of the state it simply does not follow that security has exclusive priority over everything else. Whenever security is given exclusive priority, the first thing that is undermined is security itself. The experience of Pakistan has been a classic illustration of this fact. National Security Policy, just like any other national policy, must be formulated within the overarching framework and priority of development that secures and transforms the lives of future generations of Pakistanis.

765- A National Security Policy that does not emanate from the priority of Pakistan's development and social needs and subsequently delineates strategies and choices that need to be implemented cannot be taken seriously. Currently, we have no national security policy, because we have no national economic, population, educational, health, social, environmental, or any nation building policies. They exist in declaratory and normative terms and in hundreds of unread documents. But not in reality.

766- The author, Ahmad Faruqi, writes in his book, "Rethinking the National Security of Pakistan" that "National security does not reside solely in the military's combat effectiveness, but in a complementary set of five dimensions that include four non-military dimensions and one military dimension. The non-military dimensions are political leadership, social cohesion, economic vitality, and a strong foreign policy. One cannot rely on hard military assets to prevail in a strategic conflict; "the soft assets," the four non-military dimensions, "may in fact be the decisive ones."

Establishment of a National Security Council

767- A properly constituted National Security Council (NSC) is a necessity. Just like there is no national security policy there is no NSC in Pakistan today. There is, instead, a Defence Committee of the Cabinet which is no substitute for a NSC. The NSC should be primarily a body that collects, collates and coordinates information and intelligence related to national security, and submits regular policy papers and recommendations to the Chief Executive i.e. the Prime Minister. These papers and recommendations should address longer term, short term and immediate national security issues, including crisis situations. The recommendations should not be binding on the Chief Executive, but they should be part of the record which may be made public after a period of time, in accordance with law. The NSC should be part of the Prime Minister's Office and constituted accordingly.

National Security Adviser

768- The core of the NSC will need to be a Secretariat headed by a National Security Adviser (NSA) of acknowledged analytical ability, having a deep understanding of the internal and the regional and international situations and their trends. While there needs to be no bar on he or she having a political background, the professional competence of the person should be the primary reason for his or her selection. The NSA will need a well staffed and high quality Secretariat that should regularly interface with government ministries, autonomous planning bodies, civil and military intelligence agencies, universities, think tanks, the media, the intelligentsia, civil society organizations, and other public opinion forums all over the country.

769- A national security policy should be formulated by the NSC as part of an overall National Transformation Policy. It should be drafted by the NSA and Secretariat on the basis of regular inputs from all the major national security stakeholders. The proposals comprising the policy

should be self-consistent, consistent with available resources and above all, consistent with the overarching development and transformation priorities decided and approved by a democratic political process. The proposals, of course, must include strategies to raise national revenues in order to implement politically approved priorities. While national security policy needs to provide an agreed framework for policy choices it does not have to be a consensus document. In any party based democratic political process there will be inevitable policy differences. The NSC needs to consider all perspectives but in the end it will be producing an operational document for an elected government that does not represent the entire spectrum of political opinion. Provided the democratic process is functional and participatory, including regular and credible elections at all levels throughout the country, the national security policy will be an evolving and broadly owned document taking account of internal, regional and international developments as they happen instead of the static, limited and outdated essentially military documents that currently substitute for a national security policy.

770- While the NSC must primarily serve the government of the day its mandate, composition and modalities must enable it to be more than a body that just serves and endorses the short term policy preferences of the ruling party or coalition, or those of a dominant security establishment. This has never happened in Pakistan precisely because it has been a static security rather than a dynamic development state. While the inputs of the security establishment will always be vital ingredients of any national security policy and are best provided by the security establishment, national security policy necessarily embraces a far wider range of non military policies for which the military and intelligence establishment is neither designed nor professionally trained to provide adequate input, leave alone direction and leadership.

771- The last White Paper on Defence was written in 1976. A far more comprehensive White Paper on National Security Policy as part of a National Development and Transformation Policy needs to be drafted to be placed before parliament for approval and policy guidance. This should provide a framework and a context for the security and other policy committees of both houses for their deliberations and recommendations on national security issues. Indeed, the National Security Council might be designated as a National Development and Transformation Council and structured and staffed accordingly.

Counter terrorism policy

772- The major lapse highlighted by the Commissions inquiries into the antecedents of the May 2 US assassination raid on OBL in Abbottabad lay in an inadequate counter terrorism performance. Despite all the rhetoric about Pakistan being a major victim of terrorism, and terrorism being the major threat to Pakistan, the political leadership and the concerned institutions failed to provide any counter terror leadership in general, or to rigorously hunt down OBL and his network in Pakistan in particular. The government, instead seemed to have relied on an unsatisfactory alliance with the US to deal with external terrorist threats (including a two faced policy on illegal US assassination policies through drone strikes). As for dealing with internal terrorist threats it relied on the ISI to deal with them although the agency was primarily mandated to deal with external security threats to Pakistan. Moreover, the agency had an unfortunate history of an instrumental and ideological association with militant religious groups within the country. These groups have generally been hostile to elected governments that do not commit themselves to extremist or so-called "Jihadi" political agendas. The result has inevitably been a significant degree of incoherence and dysfunction in the country's counter terror policies, which has spawned further terror instead of containing and eliminating it. The relevant portions

of the Anti-Terrorist Act and the Qanoon-e-Shahadat Order (Law of Evidence) must be amended in view of the increased militancy in the country, in order to enable the security establishment to arrest and investigate terrorists effectively. Amendments are also needed in the Criminal Procedures Code and Pakistan Penal Code to facilitate effective counterterrorism policies.

773- The National Counter Terrorism Authority (NACTA) needs to be made into a real rather than fictional body. The deliberate "aborting" or "still birth" of NACTA illustrates the insincere and non-serious attitude towards countering terror. There are assertions that the ISI has no interest in allowing NACTA to take over counter terror responsibilities from it, even though legally the ISI is not mandated to look after the subject. Accordingly, it is strongly recommended that NACTA must be operationalized as soon as possible and its capabilities and competence enhanced as a matter of national priority. It should provide periodic threat assessments to all concerned for taking necessary safeguards, including inputs for economic policies that encourage development, more tolerant society, and opportunities for people to improve their lives. In order to give the requisite authority, it must be empowered and given full administrative and financial autonomy with direct access to the Prime Minister's Office, and must have senior representatives of concerned intelligence agencies, like ISI and IB, in its organizational structure. In addition to policy making and threat assessments, it must clearly develop coordination mechanisms with implementing agencies, and establish communication/liaison channels, with both international and domestic stakeholders. The relationship between NACTA and the NSC will need to be determined. The head of NACTA – who should have a military, police, intelligence or civil administration background – should be a permanent member of the NSC.

Taking Down the Extremist Infrastructure

774- The legacy of unconstitutional military rule and in particular the dark era of General Zia ul Haq left Pakistan with the poisoned legacy of a criminal, violent, ideological and anti-national infrastructure of extremism. This has stymied the development and growth of Pakistan. It has contributed to the devastation of Pakistan's national life, its international isolation and a mockery of its independence and sovereignty. The dominance of nihilist and murderous organizations acting in the name of Islam has had consequences even worse than enemy military occupation. It has posed a mortal threat to the existence of Pakistan and it has been the direct result of completely malignant interpretation of Pakistan's values, interests and security. The rule of law and the elimination of parallel and illegal structures that challenge the legitimate writ of the government are urgent national priorities. This has to be part of a national project including a national conversationand narrative to establish just and equitable governance rooted in the welfare, interests and participation of the people. Good governance cannot survive with the existence of organizations that arrogate to themselves the use of private violence in the espousal of private agendas that are not approved by a democratic political process representing the opinions and interests of the people. The use of the name of Islam to justify violent agendas involves a denial of the very essence of Islamic governance (Islam itself is a derivative of peace), which regards "fitnah" (sedition) and "fasaad" (corruption) as two of the worst possible political crimes against an Islamic political community (the Ummah). For one Muslim to declare another Muslim a non-Muslim is to arrogate the judgment of Allah and is accordingly an act of "shirk" which is "kufr".

775- Pakistan has witnessed the "blow back" from the state support that has been given to such private, ideological and violent structures from the time of the Soviet invasion and occupation of Afghanistan and Indian repression in Kashmir. This happened because of institutional hegemony

and the resulting lack of civilian control over the formulation and implementation of national security policy. As a result, Pakistan's options vis-à-vis the external challenges it faced in later years were minimized instead of being maximized through the lack of good governance and all it entails. A continued lack of commitment and priority in addressing this problem of illegal violent and parallel governance in support of extremist agendas through acts of terror in the false garb of sacred causes will progressively sink the country. May 2 was a wake-up call. We ignore it at our peril.

High Value Targets

776- The US and other countries are internationally obligated to share information with Pakistan concerning HVTs located on Pakistani territory. The CIA's refusal to do so since 2005 was a criminal act of omission. The CIA's irresponsibility entitles Pakistan to exclude it from all cooperation unless it undertakes to act with greater responsibility in future. Moreover, whenever an HVT is detained in Pakistan, it is a non-negotiable legal obligation of the government of Pakistan to try him for violation of Pakistani laws before considering any application from foreign countries for the handing over of the HVT, which if it must be done, must always be in accordance with the constitution of Pakistan, specific instruments of international law and bilateral agreements. Under no circumstances, should Pakistani citizens be handed over to foreign intelligence agencies for interrogations that include the risk of gross human rights abuses and violation of Pakistani law. This has happened repeatedly and exposes Pakistan to grave dangers. The access of foreign intelligence agencies to suspect detainees under appropriately negotiated conditions is acceptable provided Pakistani intelligence and law enforcement officials are present during the entire interrogation process. Moreover, Pakistan needs to make sure al-Qaeda and other HVTs do not find safe havens in Pakistan, not just to prevent a recurrence of

May 2, but because an inability to maintain sovereign, legal and fair writ throughout the country is anathema to national security, unity and progress.

Police Reforms

777- It is imperative that Pakistan undergoes a program for strengthening the hard core of the state, i.e. the criminal justice system (CJS) consisting of the judiciary, the people, the prosecution and the prisons. Indeed this has become an urgent need. The erosion of the independence of these institutions has caused a gradual meltdown of the writ of the state. The police remain open to gross politicization and there is interference at every level including recruitment, postings, transfers and disciplinary matters, as well as in the registration of cases, investigations and every other conceivable aspect of policing. As an operationally neutral, professionally competent and human rights conscious police constitutes a critical component of any democratic structure, it is the government's responsibility to ensure that the downward slide of Pakistan police is reversed. A public friendly, effective, economically secure and accountable professional police ensures rule of law, public order and national security.

The US Embassy in Pakistan

778- The role of the US Embassy has prima facie compromised the diplomatic norms and customs associated with the working of an Embassy. Its hiring of approximately 370 houses in Islamabad supported with a motor pool for use by CIA operatives, without informing the Foreign Office; declaring a criminal killer such as Allen Raymond Davis as a diplomat and seeking diplomatic immunity for him when he was in fact a CIA agent; not cooperating with the Punjab Police in handing over the drivers belonging to their Consulate in Lahore who ran over and killed an innocent Pakistani; its dispatch of 4-5 Land Cruisers carrying personnel to participate in the Abbottabad assassination mission etc represent activities inconsistent with a diplomatic

mission's status and obligations. The alarming expansion and reconstruction of the US Embassy in Islamabad may pave the way for deeper US penetration in Pakistan. It must be ensured that official channels are employed and such matters are not left to the discretion of unaccountable institutions. The Government of Pakistan needs to ensure that all diplomatic missions, whether of small or large countries, act in a manner consistent with their international and legal obligations and with the sovereignty, independence and laws of the host country.

Pakistan-US Relationship

779- The National Assembly of Pakistan has finalized its recommendations regarding an appropriate relationship with the US. The Commission would merely recommend that the foreign policy of Pakistan must be a servant and an instrument of its national policy based on the national priorities of the people of Pakistan as determined by a constitutionally elected government of Pakistan through a constitutional and democratic political process. What is true of foreign policy must equally hold for all other sectoral policies of Pakistan. As has been detailed in Chapter 2 of this report, the Pakistan-US relationship has never stabilized on a mutually acceptable basis for multiple reasons. This has led to unrealistic expectations and disappointment on both sides. It is time a thorough structured review be undertaken by the GoP within the parameters suggested by Parliament, and in consultation with all stakeholders, to develop a relationship that is mutually beneficial, satisfactory and sustainable. The false pretence of a "strategic" relationship is to perpetrate a deception upon the people of Pakistan. The simple truth is that there is little agreement between the US and Pakistan with regard to all of Pakistan's neighbours, including China, Afghanistan, Iran and India. The same is true for the Middle East. And it is most true of the so-called war on terror including the kinetic and illegal strategies the US has adopted towards Pakistan itself, of which the May 2 "incident" was an important

instance. The relationship, above all, needs to be transparent and honest, a criterion that has been totally ignored in the case of US drone attacks on Pakistani territory which have resulted in "collateral damage" including the deliberate if not intended killing of hundreds if not thousands of innocent civilian lives. Since this "collateral damage" was an anticipated near certainty it was, accordingly, deliberate and criminal. It provides no basis for a healthy relationship with the US, based on international human rights and humanitarian law and on mutual respect, which can be of great value to Pakistan.

Tagging Service Provision with the NADRA Database

780- Outsiders staying in Pakistan, legally or illegally, require services like banks, money changers, getting a telephone, hotel accommodation, airline tickets, hiring a house, purchasing a vehicle and paying utility bills, etc. Those staying illegally tend to use fake ID cards and documents. If the provision of the services mentioned required the production of a genuine computerized ID card/or passport or other travel/identification document which could be verified through NADRA's verification system, VERISYS, it would be easier to trace undesirables such as terrorists as well as the paper trails of their financing. This would go a long way to towards dismantling terrorist structures in Pakistan. This would require a major effort to identify and cancel fake ID cards and Passports. It would also require blocking unregistered SIMs which are used by terrorists for communications before and during terrorist operations.

Foreign NGOs

781- Currently all the foreign non-governmental organizations (NGOs) are registered by Economic Affairs Division (EAD.) They obtain no objection certificates (NOCs) for their activities and projects from counterpart departments of the Government. However, there is often inadequate oversight and monitoring of their activities during the project period. In a number of cases, this has created opportunities which have been availed of by hostile intelligence agencies to infiltrate NGOs for the purpose of illegal intelligence gathering, including preparations for assaults on the sovereignty and independence of the country, as happened on May 2, 2011. Most NGOs have no internal mechanism to keep a watch on such elements that have infiltrated them for purposes unrelated to their projects in Pakistan, as almost certainly happened in the case of Save the Children. There are a number of other aspects of the working of foreign NGOs in Pakistan which need attention but which are not directly concerned with the mandate of this Commission. The laws relating to INGOs must be reviewed by the Ministry of Law and Parliamentary Affairs and EAD in order to meet present day needs. The Societies Registration Act 1860 needs amendments as well as it is silent about many important aspects of NGO work. There is currently no role for MoI, MoFA or the Home Departments of the provinces for extradition of an individual declared "persona non-grata". The MoI must be referred to for initiation and extradition purposes.

782- It needs to be said that most NGOs, including foreign NGOs, are doing very valuable work and have assisted the people of Pakistan in a number of fields of emergency assistance, capacity building, provision of basic services, etc. But the US government's decision to allow the CIA to use USAID which in turn used Save the Children in Pakistan for the planning of the US assassination mission of May 2, has done incalculable harm to the environment in which perfectly respectable and indeed renowned NGOs seek to assist the government in discharging

its development and humanitarian obligations to the people of Pakistan. This is an issue that will need to be taken up by the government on a priority basis to ensure that the continued working of foreign NGOs in Pakistan remains consistent with the security parameters of the country. In turn this requirement should not unnecessarily restrict the NGOs from making their proper contribution in an open and transparent manner. A culture of hostility towards NGOs – local, national or international – is not a proper response.

Control Illegal Entry/Exit of Foreigners

783- Inadequate control and monitoring of entry and exit across Pakistan's borders, especially its western borders, has facilitated the ingress of undesirable elements into the country. The primary responsibility for addressing this issue lies with the Ministry of Interior. In consultation with the provincial governments, the FIA, Special Branch, Intelligence Bureau, Frontier Corps Balochistan, Frontier Corps KP, the Coast Guards, and Pakistan Rangers, it needs to urgently develop a comprehensive and realistic set of policy measures to regulate traffic across the international frontiers of Pakistan. A plan needs to be chalked out to stop illegal entry into the country. The current biometric screening system (with digital photographs and fingerprints) installed by NADRA at the airports should be extended to border check posts and sea ports, with observers trained to identify suspect persons. A nationally integrated network of monitoring and detection systems connected to constantly updated intelligence data banks needs to be developed in order to more effectively observe, control and interdict the movement of terrorists in and out of the country. With regard to Afghanistan, the physical and political feasibility of fencing the border can be considered, preferably in consultation with the government of Afghanistan. This would require increasing the number of legitimate crossing points from the present two at Chaman and Torkham to avoid disrupting normally regulated cross border traffic among tribes

that straddle the border. Both frequented and unfrequented routes should be guarded and policed. However, the proposal to mine border areas should be discarded because neither Afghanistan nor the Afghans can be considered enemies. There are other ways to track and control the movement of undesirables without endangering the lives of innocent Pakistanis and Afghans who might accidentally wander across the border. The need is to regulate rather than restrict or impede legitimate and normal cross border traffic and commerce between neighbouring countries.

Visa Policy

784- Keeping in view the influx of foreigners, especially from the US, coming to Pakistan under questionable guises, the Visa Policy 2010 must be followed in letter and spirit. The Ministry of Interior must remain vigilant while issuing visas, and all visas from the US must be cleared by the relevant intelligence agencies. Moreover, no relaxation or exception should be given to any Ambassador that allows the official Visa Policy to be circumvented.

Security companies

785- The practice of retired servicemen being recruited by foreign security companies, including notorious security "contractors," has to be restricted and strictly monitored to narrow the space for illegitimate foreign intelligence gathering operations in Pakistan.

Foreign spy networks

786- The dismantling of CIA, other foreign intelligence and Militant Islamist networks must be treated as an urgent national priority if the country is regain sovereignty over its own territory and to avert international isolation. Multiple centers of power within a single state structure of governance is complicating enough; but to have parallel structures of power inside and outside the government spells to death to state sovereignty.

Witness Protection Programs

787- This is essential to enable the public to assist public inquiries into adverse national developments that the power structure or powerful vested interests may have an interest in deterring. This is an everyday issue. One consequence is that terrorists and extremists are sometimes very difficult to successfully prosecute, which undermines the credibility of the country's policies.

Dealing with Systemic Problems

788- Many of the witnesses and interlocutors of the Commission referred to systemic problems lying at the heart of the circumstances in which the national disgrace of May 2, 2011 occurred. While a myriad of specific errors or acts of commission and omission were apparent, in the absence of an assumption of collusion and complicity, none of them can be said to be responsible for the event itself. But collectively and cumulatively they contributed to the outcome. In other words, the responsibility for the national humiliation of May 2, and the humiliations before and after it, lies in the larger nation-wide picture and with individuals who wielded larger nation-wide authority and power. Addressing this issue requires a political decision on a national scale. Even more, it requires a moral decision at individual levels. Unless this issue is addressed further humiliations and set-backs lie in store for the country which at some point will compromise its very existence. While the specifics of what needs to be done must be a separate and urgent exercise it lies beyond the remit of this Commission, except to emphasize the need to undertake the effort if professions of patriotism and commitment are to be anything other than mere deception and hypocrisy. Unless the larger picture is addressed specific measures that have been recommended will either not be taken, or if taken, will have negligible effect.

Setting Priorities

789- Pakistan is a poor country with a population approaching 200 million. It has a per capita income of just over $ 1000 per annum and an income distribution that condemns at least a third of the population (i.e. over 60 million) to live below the poverty line and another third to an equally wretched existence barely above it. It has social indices that compare with the poorest and "least developed" countries in the world. It is confronted with fundamental climatic, population, resource, capacity, economic, education, social and political trends that existentially threaten it over the coming years with accelerating chaos, divisions and explosive anarchy. The social "safety valves" and "shock absorbers" such as minimal food security, the informal economy, the "youth bulge" and the "biraderi" and patronage support systems can and do delay the inevitable, but cannot avert it in the absence of urgent comprehensive and fundamental reforms. If the May 2 national trauma can wake the nation to the realization of this reality and drive it to act upon this realization, it may turn out, in retrospect, to have been a blessing in disguise. In view of this Pakistan can no longer remain a security state unable to provide basic human security to its people. It must become a transformative developmental state that mobilizes its people to realize their potential and their priorities. All national, provincial and local policies including security, economic, foreign, social, educational, etc. must be integrated in support of this overwhelming developmental and transformational imperative. A properly interpreted, inculcated and implemented Islamic value structure must provide the moral underpinning for such a national "Jihad."

Chapter 32 Conclusion

790- The whole episode of the US assassination mission of May 2, 2011 and the Pakistan government's response before, during and after appears in large part to be a story of

complacency, ignorance, negligence, incompetence, irresponsibility and possibly worse at various levels inside and outside the government. Institutions either failed to discharge responsibilities that legally were theirs or they assumed responsibility for tasks that legally were not part of their duties and for which they were not trained. This reflected the course of civil-military relations and the power balance between them. The resulting lapses were sometimes of a serious nature.

791- The fact that at more senior levels, sufficient evidence was not easily available for acts of culpability to be assigned to specific individuals who wielded critical decision making powers does not diminish their responsibility for institutional and systemic failures.

792- The US raid of May 2, 2011 was not a development without background and history. It was a product of increasing tensions and mistrust between the US and Pakistan which were known to the entire country. It related to a subject on which the policy of the US had been stated and reiterated on a number of occasions. It took place in a context of policy choices made by the military and intelligence establishment without sufficient consultation and sharing of information with their political superiors, the elected government. In turn, the elected government showed no particular desire to discharge their responsibility to take charge of counter-terrorism and the search for OBL. The "incident" finally occurred within a situation of near absolute military asymmetry in which the completely superior capabilities of the US military were well known. It was the result of inadequate threat assessments, narrow scenario planning and insufficient consideration of available policy options. If institutions and the whole system of governance were "dysfunctional," they were so because of irresponsible governance over a sustained period, including incorrect priorities and acts of commission and omission by individuals who had de jure or de facto policy making power. Accordingly, responsibility for the state of affairs that

existed must rest with them even if many are today beyond judgment. The culpability of low level officials cannot explain away the culpable lack of due diligence and the dereliction of duty at the highest levels.

793- The May 2 "incident" may not have been the result of any significant failures of immediate military detection and response on the fateful night itself, although there are several credible but unconfirmed reports that allege otherwise. But what is undeniable is that the incident was the outcome over time of a whole series of actions and inactions at very senior decision making levels. Unless this is acknowledged, discussed in the highest political forums of the country and seriously addressed and redressed as a major national priority, there can be no guarantee against future disasters of the kind that have happened before and after the US assassination raid on Abbottabad on the night of May 2, 2011. The biggest challenge for the future of Pakistan is the refusal to acknowledge unpleasant facts and the tendency to shy away from addressing fundamental flaws in critical decision making processes that affect the survival interests of Pakistan.

Who were responsible?

794- As the report has shown, a large number of individuals and institutions were involved in the series of misdemeanours due to acts of irresponsibility and lack of due diligence in the period leading up to the "incident" of May 2, 2011. The US responsibility is clear. But it is not the primary concern of the Commission. As far as Pakistan is concerned, the failure was primarily an intelligence-security failure that was rooted in political irresponsibility and the military exercise of authority and influence in policy and administrative areas for which it neither had constitutional or legal authority, nor the necessary expertise and competence. This is the case,

even though it is also true that those civilian institutions and persons that had proper constitutional responsibilities for policy making, administrative and policing duties were in fact even less competent than the military because of the effects of an absence of civilian control and participation in national decision making over a very long period. In the premier intelligence institutionsreligiosity replaced accountability at the expense of professional competence.

795- In these circumstances it would be almost irrelevant and certainly invidious to designate relatively low level officials with limited powers as the main culprits. They had their responsibilities which in many cases, as pointed out, they failed to discharge professionally and dutifully, and for which they deserve to be reprimanded. But finally, no honest assessment of the situation can escape the conclusion that those individuals who wielded primary authority and influence in national decision making bear the primary responsibility for creating the national circumstances and environment in which the May 2, 2011 incident occurred. It is unnecessary to specifically name them because it is obvious who they are. It may be politically unrealistic to suggest "punishments" for them. But as honourable men, they ought to do honourable thing, including submittinga formal apology to the nation for their dereliction of duty. It will be for the people of Pakistan in the forthcoming elections to pass collective political judgment on them.